



**MAYOR AND COUNCIL MEETING  
MONDAY, APRIL 3, 2017  
6:00 P.M.  
DALTON CITY HALL**

**A G E N D A**

**WORK SESSION - 5:30 P.M. - 3<sup>RD</sup> FLOOR CONFERENCE ROOM**

1. Review of Agenda

**REGULAR MEETING - 6:00 P.M. - COUNCIL CHAMBER**

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Public Commentary: *(Please state Name and Address for the Record)*
5. Minutes: Work Session, Executive Session and Regular Meeting of March 20, 2017
6. New Business:
  - A. Public Safety Commission Recommendations:  
Two (2) New 2017 Alcohol Beverage Applications
  - B. City of Dalton Parks and Recreation Beverage Agreement with Pepsi Beverages Co.
  - C. Contract with B&J Reed Construction for Lakeshore Park/Threadmill Lake Improvements.
  - D. Local Government Approval and Certification for DCA Emergency Solutions Grants:
    1. Northwest Georgia Family Crisis Center, Inc.
    2. Dalton-Whitfield Community Development Corporation
    3. Living Room, Inc.
  - E. Ordinance - Second Reading:  
Ordinance 17-03  
To Make Findings Of Fact Concerning the Public Use And Necessity Of A Section Of Memorial Drive; To Vacate And Abandon The Public Interest In And To The Said Section Of Memorial Drive For Purposes Of Public Street And Transportation; To Declare The Closing Of Such Section Of Memorial Drive For Public Use And Transportation; To Authorize Delivery Of A Quitclaim Deed Of Any Interest Of The City Of Dalton In Said Street Section To Hamilton Medical Center, Inc. Except For Utility And Emergency Easements; To Establish An Effective Date; And For Other Purposes.
7. Supplemental Business
8. Adjournment

THE CITY OF DALTON  
MAYOR AND COUNCIL MINUTES  
WORK SESSION  
MARCH 20, 2017

The Mayor and Council held a Work Session this evening at 5:15 p.m. in the 3rd Floor Conference Room of City Hall. Present were Mayor Dennis Mock, Aldermen Denise Wood, Tyree Goodlett, Tate O'Gwin and Gary Crews and City Attorney James Bisson and several department heads.

Mayor Mock reviewed with the Council each of the items on the agenda. In addition to the agenda items, the following was also discussed:

City of Dalton Parks and Recreation Beverage Agreement with Pepsi Beverages Co.

The Mayor and Council decided to remove this item from the agenda to ascertain further information.

1000 Words Downtown Dalton Artwork Approval

Deanna Mathis discussed a new art project to be added to Burr Park. The Mayor and Council approved of the artwork but added they wanted the word graffiti to be removed from the description of the artwork.

ADJOURNMENT

There being no further business to come before the Mayor and Council, the Work Session was Adjourned at 5:30 p.m.

\_\_\_\_\_  
Bernadette Chattam  
City Clerk

\_\_\_\_\_  
Dennis Mock, Mayor

Recorded

Approved: \_\_\_\_\_

Posted: \_\_\_\_\_

THE CITY OF DALTON  
MAYOR AND COUNCIL  
EXECUTIVE SESSION MINUTES  
MARCH 20, 2017

An Executive Session of the Mayor and Council was called at the end of the regular session on the motion of Alderman Wood, second Alderman Crews. The Mayor and Council adjourned into Executive Session at 6:14 to discuss real estate and potential litigation.

Present for the meeting were Mayor Dennis Mock, Aldermen Tyree Goodlett, Gary Crews, Tate O'Gwin, Denise Wood, City Attorney James Bisson, Public Works Director Benny Dunn, and Deputy Public Works Director Andrew Parker.

No action was proposed or taken.

ADJOURNMENT

There being no further business to come before the Mayor and Council in Executive Session on the motion of Alderman Wood, second Alderman O'Gwin, the Mayor and Council adjourned out of Executive Session at 6:38 p.m.

\_\_\_\_\_  
Bernadette Chattam  
City Clerk

\_\_\_\_\_  
James Bisson, City Attorney

Approved: \_\_\_\_\_  
NR

THE CITY OF DALTON  
MAYOR AND COUNCIL MINUTES  
MARCH 20, 2017

The meeting of the Mayor and Council was held this evening at 6:00 p.m. in the Council Chambers of City Hall. Present were Mayor Dennis Mock, Aldermen Denise Wood, Tate O'Gwin, Tyree Goodlett, Gary Crews and City Attorney James Bisson.

PLEDGE OF ALLEGIANCE

Mayor Mock led the audience in the Pledge of Allegiance.

APPROVAL OF AGENDA

On the motion of Alderman Goodlett, second Alderman Wood, the Mayor and Council approved the agenda. The vote was unanimous in favor.

PUBLIC COMMENTARY

There were no public comments.

MINUTES

The Mayor and Council were presented written copies of the Work Session and Regular Meeting of March 6, 2017. On the motion of Alderman Wood, second Alderman O'Gwin, the minutes were approved as written and adopted.

RENEWAL OF EMCOR HVAC AGREEMENT FOR 100 S. HAMILTON STREET

The Mayor and Council reviewed the renewal agreement for EMCOR for an HVAC Agreement at 100 S. Hamilton Street. The adjusted service agreement price will change from \$3600.00 to \$3780.00 per year effective May 1, 2017. On the motion of Alderman Crews, second Alderman O'Gwin, the agreement was approved. The vote was unanimous in favor.

GEORGIA DEPARTMENT OF TRANSPORTATION CONTRACT  
CONSTRUCTION CONTRACT WITH AXTELL'S, INC

On the motion of Alderman Goodlett, second Alderman Crews the Mayor and Council approved the following;

- Georgia Department of Transportation Contract for Airport Crack Seal and Remarking Project AP017-9031-36(313) at Dalton Municipal Airport.
- Construction Contract with Axtell's, Inc., for Runway and Taxiway Crack Seal and Markings at Dalton Municipal Airport.

The vote was unanimous in favor.

CITY OF DALTON PARKS AND RECREATION BEVERAGE AGREEMENT WITH PEPSI BEVERAGES CO.

This item was removed from the agenda.

BID APPROVAL - B&J REED CONSTRUCTION

The Mayor and Council reviewed the bid with B&J Reed Construction for Construction of Lakeshore Park and Threadmill Lake Improvements. On the motion of Alderman Goodlett, second Alderman O'Gwin, the Mayor and Council accepted the bid. The vote was unanimous in favor. A copy of this bid is a part of these minutes.

1000 WORDS DOWNTOWN DALTON ARTWORK APPROVAL - DEANNA MATHIS

Deanna Mathis came before the Mayor and Council to present artwork to be used at Burr Park. The artist name is Eric Finley aka The Artist Seven. The design is called "between the lines" and is part of a series of works that the artist created to highlight a connection between graffiti and geometry. On the motion of Alderman Crews, second Alderman Goodlett, the artwork was approved. Alderman Wood asked that the word graffiti be removed from the description. The vote was unanimous in favor.

ORDINANCE - FIRST READING

ORDINANCE 17-03

Sandy McKenzie, COO of Hamilton Medical Center, presented a PowerPoint presentation to the Mayor and Council with regard to closing a portion of Memorial Drive. Ms. McKenzie outlined that the hospital is planning to construct a state of the art Cancer Institute that will be joined to the current hospital structure.

The Mayor and Council held a first reading of Ordinance 17-03 to Make Findings Of Fact Concerning the Public Use And Necessity Of A Section Of Memorial Drive; To Vacate And Abandon The Public Interest In And To The Said Section Of Memorial Drive For Purposes Of Public Street And Transportation; To Declare The Closing Of Such Section Of Memorial Drive For Public Use And Transportation; To Authorize Delivery Of A Quitclaim Deed Of Any Interest Of The City Of Dalton In Said Street Section To Hamilton Medical Center, Inc. Except For Utility And Emergency Easements; To Establish An Effective Date; And For Other Purposes.

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was Adjourned at 6:40 p.m.

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Bernadette Chattam  
City Clerk

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Dennis Mock, Mayor

Recorded

Approved: \_\_\_\_\_

Posted: \_\_\_\_\_

**2017 ALCOHOL BEVERAGE RENEWAL APPLICATIONS**

**PSC TUESDAY MARCH 28, 2017**

**M&C MONDAY APRIL 3, 2017**

**(2) ALCOHOL APPLICATION APPROVALS**

Business Owner: Carniceria Y Panaderia Inc.  
d/b/a: Carnicecia Y Panaderia El Milagro  
Applicant: Dalia Rodriguez Villafuerte  
Business Address: 608 MLK Jr. Blvd  
Type: Package Beer  
Disposition: New

Business Owner: Georgia CVS Pharmacy, LLC.  
d/b/a: CVS/Pharmacy #5608  
Applicant: Melanie K. Luker  
Business Address: 2501 East Walnut Ave.  
Type: Package Beer, Wine  
Disposition: New

## Beverage Agreement C

### Customer Information

**Name of Business:** City of Dalton Parks and Recreation

**Primary Contact:** Steve Card

**Address:** 904 Civic Dr

**City:** Dalton

**State:** GA

**Zip:** 30721

(Required)

**Customer E-mail:** Scard@cityofdalton-ga.gov

**COF Number(s):** \_\_\_\_\_

**(Include all numbers)**

**Fed Tax Id #:** \_\_\_\_\_

**State Tax Id #:** \_\_\_\_\_

**Business Phone:** \_\_\_\_\_ **Cell #:** \_\_\_\_\_

**Business Owner:** \_\_\_\_\_

### PBC Information

**PBC Location(s):** Chattanooga

**Created By:** Marnie Graham **Route #:** 14202

**PBC Market Unit:** Mid-Atlantic **Phone #:** 865-740-5975

**Sales Method:** (check one) ☒ **Pepsi Direct** ☐ **Pre-Sell (Route # )**

### Agreement Term


**Agreement Start Date:** 3/15/2017

**Agreement End Date\*:** 3/15/2020

(Agreement automatically renews each year unless Cancellation is received at least ninety (90) days prior to the end of the term)

### (Check Boxes and Specify, as applicable)

#### PBC Agrees To:

<b>X</b>	Loan at no charge (except where prohibited by law - in which event PBC shall charge the minimum legal rental fee allowed), where and as necessary coolers, fountain or other equipment to the Customer, to be placed and operated pursuant to the terms and conditions of this Agreement (as specified on reverse side).
<b>X</b>	Initial Equipment Placement shall be as follows (fill out as applicable): Coolers: <u>One-Door</u> <u>Two-Door</u> <u>Three-Door</u> <u>Counter-top</u> <u>Energy</u> Fountain: <u>6 Valve</u> <u>8 Valve</u> <u>Bar guns (</u> <u>button)</u> Special: <u>Lipton Refreshing Iced Tea</u> <u>Juice</u> <u>Frozen</u> Slush FUB Unit <u>1 Valve Urn</u> <u>2 Valve Urn</u> <u>Other (Specify):</u>
<b>X</b>	PBC shall provide, at no charge to the Customer (except where prohibited by law), periodic maintenance, necessary service and repairs to all Equipment loaned to Customer pursuant to this Agreement.
<b>X</b>	PBC shall make available for purchase by Customer Pepsi branded cups and CO <sub>2</sub> ("Ancillary Products") at prices as determined by PBC. (Based on availability)
<b>X</b>	Provide Customer with the opportunity to participate as a member of  * If unredeemed, earned points will expire after two years * Visit <a href="http://www.pepsirewardsplus.com">www.pepsirewardsplus.com</a> for full program details
	For additional local PBC Field input:

#### Customer Agrees To:

	Volume Based Term (Check box if applicable) * The Term of this Agreement shall commence on the Agreement Start Date listed above, and end on the later of: (1) _____ or (2) the date on which Customer purchases from PBC _____ Gallons/Cases for sale in the Outlets. No auto renewal of Term.
	EXCLUSIVE – Customer agrees to exclusively serve the Products indicated below at the Customer's Outlet. The Products shall be the only beverages of their respective types sold, dispensed or otherwise made available, or in any way advertised, displayed, represented or promoted at or in connection with the Customer's Outlet.
<b>X</b>	NON-EXCLUSIVE – Customer agrees to grant PBC the right to have its Products sold, dispensed or otherwise made available, and advertised, displayed, represented or promoted at or in connection with the Customer's Outlet. Notwithstanding the foregoing, if PBC has provided Customer with fountain Equipment, Customer agrees to serve PBC's postmix Products exclusively at its Outlet.
<b>X</b>	DSD – Customer agrees to purchase all Products directly from the PBC Location(s) indicated above, and sell only those Products purchased from PBC from the Equipment provided to the Customer by PBC. Customer shall not stock any non-PBC Products (food or beverages) in Equipment.
	MINIMUM THRUPUT – In order to qualify for applicable Equipment, Customer shall purchase a minimum annual average of 100 Cases per door for each cooler.
<b>X</b>	REQUIRED PRODUCTS. Purchase, stock and distribute at least each of the Products (as specified below) at all times during the Term.

#### Required Packages for this Agreement:

Fountain Postmix/BIB X20oz 2 Liter Cans Fountain  
Premix/Tanks (Limited Market Availability) Cups CO<sub>2</sub>

Other :

#### FOUNTAIN/POSTMIX SKU REQUIREMENTS: (Must carry minimum of Six) (Based on availability)

Pepsi Dt Pepsi Sierra Mist Mtn. Dew Dt. Dew SoBe Life Water  
Brisk Tea Lipton Refreshing Iced Tea: Sweet UnSweet Other  
Dr Pep Dt. DRP Mug CF Dt Pepsi Dt Sierra Mist Crush  
Lemonade Wild Cherry Pepsi Fruit Punch  
Frozen Slush Juice BIB Juice Cartridge Other Innovation

#### 20oz. BOTTLE SKU REQUIREMENTS: Must Check One Level

(All shall be 20 oz bottles unless otherwise indicated – 16.9 oz Aquafina)

Platinum: Must Purchase Pepsi, Dt Pepsi, Mist Twist, Mountain Dew, Aquafina 20oz or 16.0oz plus any three additional SKUs from brands below:

Gold: Must Purchase any five SKUs from brands below:

Silver: Must Purchase any three SKUs from brands below:

Pepsi Dt Pepsi Mtn. Dew Dt. Dew Mist Twist Aquafina LifeWTR  
Crush Max Next Lipton: Iced Tea Brisk Pure Leaf Gatorade  
G2 PropelZero SoBe LifeWater SoBe Dole/Ocean Spray  
KickStart (16oz.) Starbucks (11oz/13.7oz.) Energy (16oz.)

**X** **Comply with the Terms of this Agreement**

#### AGREED TO AND ACCEPTED BY:

For Pepsi Beverages Company	
Signature: _____	Date: _____
Print Name: <u>Marnie A. Graham</u>	Title: <u>FSR / DBM</u>
For Customer	
Signature: _____	Date: _____
Print Name: _____	Title: _____





COF:

This sets forth the agreement ("Agreement") between Bottling Group, LLC, on behalf of itself and its affiliates and/or their respective subsidiaries collectively comprising Pepsi Beverages Company ("PBC") and the Customer identified on the front page of this Agreement (the "Customer"), with respect to the purchase of Products.

1. **Definitions.** As used in this Agreement, the following capitalized terms shall have the respective meanings assigned thereto below.

a. "Agreement Year" shall mean each twelve-month period beginning with the Agreement Start Date.

b. "Beverages" means all carbonated and non-carbonated, non-alcoholic drinks, however dispensed, within the following categories: (i) colas and other flavored carbonated drinks; (ii) fruit juice, fruit juice containing and fruit flavored drinks; (iii) chilled coffee drinks; (iv) chilled tea products; (v) hypertonic, isotonic and hypotonic drinks (sports drinks and fluid replacements); (vi) energy drinks, (vii) bottled or canned water whether carbonated or still (spring, mineral or purified), (viii) liquid concentrate teas ("LCT"), (ix) frozen non-carbonated beverages ("FUB"), and (x) any future categories of nonalcoholic beverage products that may be distributed by PBC.

c. "Cases" shall mean the number of cases of bottle & can Products purchased by the Customer from PBC to be delivered in sizes, quantities and types of containers as determined by PBC from time to time.

d. "Equipment" shall mean all coolers, fountain and other beverage dispensing equipment loaned or rented to the Customer by PBC during the Term.

e. "Gallons" shall mean the gallons of Postmix, LCT and FB Products purchased by the Customer from PBC.

f. "Outlet" shall mean the Customer's outlet located at the address indicated under the Customer Information section, and any expansions thereof, including any restaurant, outlet or other facility in the Customer's system that may be opened or acquired by the Customer within PBC's bottling territory during the Term (the "Outlets"). In the event that new Outlets are added during the Term of this Agreement, the parties shall create and attach an updated schedule of Outlets, COFs and addresses, to be automatically included as part of the Agreement.

g. "Products" shall mean Beverages manufactured, sold or distributed by PBC which may be amended by PBC from time to time.

h. "Term" The term of this Agreement shall be for the period commencing on the Agreement Start Date and expiring on the Agreement End Date as indicated on the front page and/or "Volume Based Term" section of this Agreement, unless sooner terminated or extended as provided herein. After the expiration of the initial term, for agreements that have a time-based duration, this Agreement shall automatically renew for successive one (1) year periods unless contrary written notice is provided by one party to the other not less than 90 days prior to the end of the initial term or any renewal period. Any renewals shall be under the same terms and conditions, except that Customer shall not be entitled to receive any consideration identified as "one-time" or upfront for any renewal periods.

same terms and conditions, except that Customer shall not be entitled to receive any consideration identified as "one-time" or upfront for any renewal periods.

2. **Consideration.** In consideration of the rights granted in this Agreement, and provided the Customer is not in breach of this Agreement, PBC shall provide the Customer the following – if applicable as indicated on the first two pages of this Agreement:

a. **Equipment.** PBC or one of its affiliates shall retain all right title and interest in the Equipment. Subject to compliance with installation requirements, PBC shall deliver and install the Equipment at the approved designated Customer location, provided that Customer shall make available necessary electrical and plumbing facilities as required by city, state and Federal regulations. At all times during the Term, Customer shall comply with PBC's Product merchandising standards, and policies and procedures regarding the operation and use of PBC's Equipment, as such standards and policies may be updated or modified by PBC from time to time. In connection with the foregoing, Customer acknowledges and agrees that Equipment shall only be used to house/dispense PBC Products and may not be safe or suitable for storage of non-Beverage items. Customer agrees not to remove or cause to be removed or otherwise encumber the Equipment from the location above designated without the written consent of PBC. Customer agrees to promptly notify PBC if the Equipment needs to be repaired or serviced. Customer further agrees to fully cooperate with PBC in effecting any necessary repairs or service. Provided the Customer is in compliance with all terms and conditions of this Agreement, PBC agrees to provide free service and repair of the Equipment (except where prohibited by law). Customer shall keep the Equipment free from any liens or encumbrances except those caused by PBC. Customer shall be liable to PBC for careful use and return of the Equipment in good condition, and any Equipment or parts lost or damaged by fire, theft, accident, or for any other reason, shall be paid for, at the time of loss, by Customer. All reasonable expenses incurred by PBC in securing return of the Equipment, including but not limited to hourly charges for PBC's employees, shall be Customer's responsibility. PBC shall have the right, during Customer's usual business hours, to enter the premises where the Equipment is located and shall have free access thereto for purposes of inspecting or removing the Equipment.

b. **Funding.** As set forth in this Agreement, Funding, as applicable, may consist of: (1) an Upfront Development Fund payment in the amount indicated in this Agreement, payable as specified herein and earned over the duration of the Term as stated below; (2) Rebates payable for applicable Cases or Gallons or Products purchased by Customer from PBC during the applicable funding period; (3) a one-time only Signing Bonus in the amount indicated in this Agreement, payable within ninety (90) days of the later of installation of Equipment or signing of this Agreement by both parties, and earned over the duration of the Term; and (4) such other consideration as indicated on the first two pages of this Agreement, including that based on exclusive/non-exclusive status of the Customer. For funding consisting of item (1) or (3) above, the funding will be earned by Customer on an equal monthly basis over the initial Term if the Agreement has only a "time-based" duration, and will be earned on an equal per Gallon/Case basis if the Agreement has a "later of time or Gallons/Cases purchased" duration; and

c. The Customer acknowledges and agrees that all consideration set forth herein is to be earned by the Customer based on its full compliance with the terms, and requirements of this Agreement and PBC shall provide such consideration provided the Customer (1) has paid in full, without offsets, auto or other deductions, all invoices for Products delivered to the Customer, and (2) is not in breach of its obligations under this Agreement.

3. **Product Price.** Prices for Products (including for Ancillary Products, if applicable) shall be at the discretion of PBC and subject to change from time to time.

#### 4. General Terms

a. **Breach and Termination.** In the event either party breaches a provision of this Agreement, the non-breaching party shall give the other party written notice of such breach. Upon receipt of such written notice, the breaching party shall have thirty (30) days to cure such breach. If such breach is not cured within the specified time period, the non-breaching party may terminate this Agreement upon the expiration of such cure period upon written notice to the breaching party.

b. **Failure to meet Minimum Thruput Requirement.** Throughout the Term, if Customer purchase trends reasonably indicate that Customer cannot achieve the average Cases/Gallons as indicated on the front page of this Agreement, then PBC shall have the right to remove Equipment completely and terminate this Agreement pursuant to Section 4(a), or substitute/adjust Equipment placement(s) as deemed reasonably necessary by PBC. The Customer shall return the Equipment within 20 days after written notice from PBC. At the end of the initial Term, or any renewal period thereafter, if Customer has failed to purchase the aggregate (e.g. for 2-year term, 1000 Gallons per fountain dispensing unit) volume threshold requirements stated herein, PBC shall have the option, in lieu of termination, to extend the Term of the Agreement until such time as the Customer's purchases reach the applicable aggregate volume thresholds, such extension to be treated under Section 1(g), above ("Automatic Extension").

c. **Equipment upon Expiration or Termination of this Agreement.** If this Agreement is terminated or expires and the parties do not enter into a subsequent agreement, then the Customer shall fully cooperate with PBC to insure that PBC is able to pick up its Equipment. Within 15 days after the expiration or termination the Customer shall coordinate with PBC so that PBC may pick up its Equipment at the Customer's locations. Once PBC has picked up and inspected the Equipment, PBC shall notify the Customer of any damage to or missing Equipment/parts (excluding reasonable wear and tear). Customer shall immediately pay to PBC all applicable costs, expenses, and fees associated with the repair/replacement of the Equipment or associated parts. Failure make such payment shall be deemed a material breach of this Agreement.

d. **Right of Offset.** PBC reserves the right to withhold payments due hereunder as an additional remedy for breach, or as an offset (partial or whole) against any amounts not paid by Customer to PBC pursuant to this Agreement, including the payments set forth in Sections 4(b) and 4(d), above.

e. **Customer Representation.** Customer represents and warrants to PBC that the execution, delivery and performance of this Agreement by Customer will not violate any agreements with, or rights of, third parties.

f. **Non-Disclosure.** Except as may otherwise be required by law or legal process, Customer shall not disclose to unrelated third parties the terms and conditions of this Agreement without the written consent of PBC.

g. **Assignment/Acquisition.** The Customer shall not sell, assign, transfer or otherwise encumber any interest in the Agreement without prior written consent of PBC. In the event that the Customer sells, assigns or transfers its assets to a third party or there is a change in control of the Customer, the Customer shall cause the transferee to assume all of the Customer's obligations under this Agreement prior to such sale, assignment or transfer. In the event the transferee has an existing local agreement with PBC or national agreement with PepsiCo (which agreement covers the purchase of Products), the agreement with the transferee shall continue and PBC's obligations under this agreement shall terminate. PBC may assign this Agreement at any time to an affiliate without any prior consent.

h. **Unauthorized Reselling and/or Transshipment.** PBC reserves the right to limit quantities, deduct/withhold funding, charge transshipment fines, or terminate this Agreement immediately (i.e., without notice/cure period) if the Customer resells Products in a manner not authorized by this Agreement, including to other resellers/distributors or for direct/indirect sale outside of the PBC Location's exclusive bottling territory. PBC will have the right to inspect Customer's warehouse for the purpose of verifying product production codes.

i. **Trademarks.** PBC shall have final authority to review and approve, in its sole discretion, all aspects of any advertising or promotion provided for under this Agreement, including of any and all promotional or other materials utilizing PepsiCo trademarks, and no documents, point of sale, coupons, sell sheets, etc. shall be released without PBC's prior written approval. Any and all trademarked, copyrighted or other material in which either party claims or has property rights shall remain the sole and exclusive property of that party and shall be used by the other solely for the purposes listed and to the extent allowed by this Agreement.

j. **Indemnification.** PBG will indemnify and hold the Customers harmless from any and all suits, actions, claims, demands, losses, costs, damages, liabilities, fines, expenses and penalties (including reasonable attorneys' fees) arising out of (i) its breach of any terms or condition of this Agreement; (ii) product liability suits resulting from the use or consumption of the Beverage Products; and/or (iii) the negligence or willful misconduct of PBG.

To the extent allowed under Georgia law, the Customers will indemnify and hold PBG, its subsidiaries, affiliates, costs, damages, liabilities, fines, expenses and penalties (including reasonable attorney's fees) arising out of, (i) its breach of any term or condition of this Agreement; and/or (ii) the negligence or willful misconduct of the Customers.

k. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto regarding the subject matter hereof and supersedes all other agreements between the parties, including prior funding commitments relating to the purchase of the Products by Customer. This Agreement may be amended or modified only by a writing signed by each of the parties.

Pepsi Beverages Company		Customer	
Signature: [ ]	Date: [ ]	Signature: [ ]	Date: [ ]

CONTRACT

THIS AGREEMENT made this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the CITY OF DALTON, GEORGIA, hereinafter called "Owner", and B & J REED CONSTRUCTION a contractor doing business as an individual, a partnership, or a corporation\* of the City of Chowech County of Murray, and State of GEORGIA hereinafter called "Contractor".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Owner, the Contractor hereby agrees to commence and complete the construction of the project entitled:

**LAKESHORE PARK / THREADMILL LAKE IMPROVEMENTS**

hereinafter called the "Project", for the sum of \$ 1,138,530.56 Dollars and all extra work in connection therewith, under the terms as stated in the Contract Documents, and at its own proper cost and expense to furnish all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the proposal, the General Conditions of the Contract, the specifications and contract documents therefore as prepared by the Owner and as enumerated in Paragraph 2 of the General Conditions, all of which are made a part hereof and collectively constitute the Contract.

The Contractor hereby agrees to commence work on or before a date to be specified in a written "Notice to Proceed" of the Owner. All work shall be completed by October 2, 2017. Bidders must agree to pay as liquidated damages the sum of \$300.00 per each consecutive calendar day thereafter. Due consideration will be given to delivery of materials in specifying starting date.

\*Strike out inapplicable terms.



CONTRACT  
(Continued)

The Owner agrees to pay the Contractor in current funds for the performance of the contract, subject to additions and deductions as provided in the General Conditions of the Contract, and to make payments on account thereof as provided in "Payments to Contractor," of the General Conditions.

IN WITNESS WHEREOF, the parties to those presents have executed this contract in five (5) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

ATTEST:

CITY OF DALTON, GEORGIA

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_ SEAL

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Title

ATTEST:

Jenny Reed  
Secretary

By: Jenny Reed SEAL

[Signature]  
Witness

President  
Title

Secretary of Owner should attest. If Contractor is corporation, secretary should attest.

Give proper title of each person executing contract



OATH MADE PURSUANT TO O.C.G.A. § 36-91-21(e)

IN PERSON BEFORE ME, an officer authorized to administer oaths appeared Jeremy Reed who on oath deposes and says as follows:

I am an officer of B & J REED CONSTRUCTION, LLC (the "Company") and I am authorized to make this oath on behalf of the Company. I make this oath from my personal knowledge after reasonable inquiry. Neither the Company nor its officers, members or employees have, directly or indirectly, prevented or attempted to prevent, by any means whatsoever, competition in the bidding or proposals for the Lakeshore Park/Threadmill Lake improvements (the "Project"). Neither the Company nor its officers, stockholders or employees have prevented or endeavored to prevent anyone, by any means whatsoever, from making a bid or proposal for the Project. Neither the Company nor its officers, members or employees have caused or induced another to withdraw a bid or proposal for work on the Project.

This 29 day of March, 2017.

Sworn to and subscribed before me,  
this 29 day of March, 2017.

Barbara A. Langford  
Notary Public

Jeremy Reed  
Print name: Jeremy Reed



## **SECTION 0300 - GENERAL CONDITIONS**

### **0301 CONTRACT AND CONTRACT DOCUMENTS**

The Contract Documents as hereinafter enumerated in Paragraph 2 of the General Conditions, shall form this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were fully set forth. The Table of Contents, Titles, Headings, Running Headlines and Marginal Notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way effect, limit or cast light on the interpretation of the provisions to which they refer.

### **0302 DEFINITIONS**

The following terms as used in this contract are respectively defined as follows:

- 0302.01 **Contractor** - A person, firm or corporation with whom the contract is made by the Owner.
- 0302.02 **Contract Documents** - The Contract Documents are composed of the Advertisement for Bids; Instructions to Bidders; Bid Package; Form of Proposal, General Conditions, Supplementary Conditions, Detail Specifications, Form of Contract, Form of Bond(s), Addenda and the drawings including all changes incorporated herein before their execution.
- 0302.03 **Project Representative** - Refers to the authorized representative of the Owner, who is assigned to the site or any part thereof.
- 0302.04 **Owner** - The party of the First Part in the accompanying Contract, and meaning the CITY OF DALTON, GEORGIA.
- 0302.05 **Subcontractor** - A person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with the contractor for performance of a part of the work at the site.
- 0302.06 **Work on (at) the Project** - Work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the Contractor and any Subcontractor.

### **0303 CORRELATION AND INTENT OF DOCUMENTS**

The contract documents are complementary, and what is called for by any one shall be as binding as if called for by all.



0303.01 The Intent of the documents is to describe all construction entailed in this project. The contractor will furnish all labor and materials, equipment, transportation, tools and appurtenances such as may be reasonably required under the terms of the contract to make each part of the work complete.

0303.02 The Drawings are intended to conform and agree with the Specifications; If, however, discrepancies occur, the Owner will decide which shall govern. Special Specifications stated on the Drawings govern that particular place of construction and have equal weight and importance as the printed specifications. In the event of any discrepancies between the Drawings and the figures written thereon, the figures are to be taken as correct.

#### 0304 MATERIALS, SERVICES AND FACILITIES

0304.01 It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.

0304.02 Any work necessary to be performed by the Contractor to complete the project on time after regular working hours, on Sundays or Legal Holidays, shall be performed without additional expense to the Owner.

#### 0305 CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the work, free from all liens, claims and/or encumbrances.

#### 0306 MATERIALS FURNISHED BY THE CONTRACTOR

All materials used in the work including equipment shall be new and unused materials of a reputable U.S. Manufacturer conforming to the applicable requirements of the Specifications, and no materials shall be used in the work until they have been approved by the Owner. The Contractor shall furnish all materials necessary except as otherwise specifically noted or specified.

#### 0307 INSPECTION AND TESTING OF MATERIALS

All materials and equipment used in the construction of the project shall be



subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the Owner. Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

#### **0308 PATENTS**

- 0308.01 The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract, including its use by the Owner, unless otherwise specifically stipulated in the Contract Documents.
- 0308.02 License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized licensee, direct by the Owner and not by or through the Contractor.
- 0308.03 If the Contractor uses any design, device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the Owner of such patented or copyrighted design, device or material. It is mutually agreed and understood, that, without exception, arising from the use of such design, device, or materials or in any way involved in the work, the Contractor and/or Contractor's Sureties shall indemnify and save harmless the Owner of the project from all claims for infringement by the reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with work agreed to be performed under this contract and shall indemnify the Owner for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

#### **0309 SURVEYS, PERMITS AND REGULATIONS**

- 0309.01 Unless otherwise expressly provided for in the Specifications, the Owner will furnish to the Contractor any control alignment and bench mark data from previous engineering surveys.
- 0309.02 The Contractor shall procure and pay all permits, licenses and approvals necessary for the execution of his contract. The Contractor shall comply with all laws, ordinances, rules, orders, and regulations relating to performance of the work, the protection of adjacent property, and the maintenance of passageways, guard fences or other protective facilities.



### **0310 CONTRACTOR'S OBLIGATIONS**

0310.01 The Contractor shall and will, in good workmanlike manner do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this contract, within the time herein specified, in accordance with the plans and drawings covered by this contract, any and all supplemental plans and drawings and in accordance with the directions of the Owner as given from time to time during the progress of the work. Contractor shall furnish, erect, maintain and remove such construction plant and such temporary works as may be required. Contractor alone shall be responsible for the safety, efficiency and adequacy of the plant, appliances, and methods, and for any damage which may result from their failure of their improper construction, maintenance or operation.

0310.02 The Contractor shall observe, comply with and be subject to all terms, conditions, requirements, and limitations of the Contract and specifications and shall do, carry on, and complete the entire work to the satisfaction of the Owner.

### **0311 CONTRACTOR'S RESPONSIBILITY**

The Contractor shall be responsible for all material and work until they are finally accepted by the Owner and shall repair at contractor's own expense any damage that they sustain before their final acceptance. The Contractor shall be responsible for all damages caused of whatever nature and must settle all claims arising from such damage without cost to the Owner; contractor shall act as defendant in, and bear the expense of each and every suit of any and every nature which may be brought against contractor or the Owner, by reason of, or connected with the work under the Contract. Should any claim arise, the Owner may hold back sufficient money to meet said claims or until the Contractor has satisfied the Owner that all claims against contractor as the result of the work have been adjusted. Contractor must also show that there are no claims or liens whatsoever outstanding at the completion of this contract before final payment is made.

### **0312 WEATHER CONDITIONS**

In the event of temporary suspension of work, or during inclement weather, or whenever the Owner shall direct, the Contractor will, and will cause the subcontractors to protect carefully the work and materials against damage or injury from the weather. If, in the opinion of the Owner, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of the subcontractors so to protect the work, such materials shall be removed and replaced at the expense of the Contractor.





### **0313 SAFETY PROVISIONS**

- 0313.01 The Contractor shall comply with the Department of Labor Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970 (PL 91-596) and under Sec.107 of the Contract Work Hours and Safety Standards Act (PL 91-54).
- 0313.02 The Contractor shall be responsible for the Safety, efficiency and adequacy of the contractor's plant, appliances and methods, and for any damage which may result from their failure of their improper construction, maintenance and operation.
- 0313.03 The Contractor shall employ, when necessary, security on the work and shall, when necessary, erect and maintain such strong and suitable barriers and such light as will effectually prevent the happening of any accident to health, limb or property.

### **0314 SANITARY PROVISIONS**

The Contractor shall provide and maintain in a neat and sanitary condition such accommodations for the use of all employees as may be necessary to comply with the regulations of the State Board of Health and all local ordinances. No nuisance will be permitted.

### **0315 PUBLIC CONVENIENCE AND SAFETY**

Materials stored at the site of the work shall be so placed and the work shall, at all times, be so conducted as to cause no greater obstruction to traffic than is considered permissible by the Owner. No roadway shall be closed or opened except by express permission of the Owner and the Contractor's proper notification of local emergency services and school systems. Precaution shall be exercised at all times for the protection of persons and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment and other hazards shall be guarded in accordance with the safety provisions of the manual of Accident Prevention in Construction, published by the Associated General Contractors of America to extent that such provisions are not in contravention of applicable laws.

### **0316 PROTECTION OF WORK AND PROPERTY - EMERGENCY**

The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this contract. The Contractor shall at all times safely guard and protect the work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury unless such be caused directly by errors contained in the contract or by the Owner, or a duly authorized representative.



0316.01 In case of an emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from the Owner in a diligent manner. The Contractor shall notify the Owner immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the Owner for approval.

0316.02 Where the Contractor has not taken action but has notified the Owner of an emergency threatening injury to persons or damage to the work or any adjoining property, the Contractor shall act as instructed or authorized by the Owner.

0316.03 The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Paragraph 0327 of the General Conditions.

#### 0317 INSPECTION

The authorized representatives and agents of the Owner shall be permitted to observe all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records.

#### 0318 REPORTS, RECORDS AND DATA

The Contractor shall submit to the Owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the Owner may request concerning work performed or to be performed under this contract.

#### 0319 SUPERINTENDENCE BY CONTRACTOR

At the site of the work, the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the Owner and shall be one who can be continued in that capacity for the particular job involved unless that representative ceases to be on the Contractor's payroll.

#### 0320 COMPETENT LABOR

0320.01 The Contractor shall employ only competent and skilled workers on the project. The Contractor shall have a competent superintendent or foreman present at all times when the work is in progress and with authority to receive orders and execute the work.

0320.02 The Contractor shall, upon demand from the Owner, immediately remove any superintendent, foreman or worker whom the Owner may consider



Incompetent or undesirable.

**0321 CONSTRUCTION EQUIPMENT**

The Contractor shall provide all necessary equipment in good repair for the expeditious construction of the work. Any equipment not adapted for the work, in such repair as to be dangerous to the project or workers shall not be used.

**0322 CHANGES IN THE WORK**

0322.01 Without invalidating the Agreement, the Owner may, at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by Change Orders. Upon receipt of a Change Order, the Contractor will proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Paragraph 0328. A Change Order signed by the Contractor indicates agreement therewith.

0322.02 The Owner may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If the Contractor believes that any Field Order authorized by the Owner entitles the Contractor to an increase in the Contract Price or extension of Contract Time, the Contractor shall inform the Owner in writing of the amount of increased price or time associated with the Field Order, and shall include reference to appropriate contract documents supporting the basis for the claim, and the Contractor shall not proceed with the work in question until a written decision has been rendered by the Owner.

0322.03 Any changes or additional work performed by the Contractor without authorization of a Change Order will not entitle the Contractor to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency.

0322.04 It is the Contractor's responsibility to notify the surety of any changes affecting the general scope of the Work or change in the Contract Price and the amount of the applicable bonds shall be adjusted accordingly. The Contractor will furnish proof of such adjustment to the Owner.

0322.05 The term Change Order is defined as a written order to the Contractor signed by the Owner which authorizes a change in the work or the contract price or the contract time issued after execution of the Agreement.



- 0322.06 The Contract Price constitutes the total compensation payable to the Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the Contractor shall be at the Contractor's expense without changing the Contract Price, except where authorized by Change Order.

**0323 CHANGE IN CONTRACT PRICE**

- 0323.01 The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

0323.01.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.

0323.01.2 By mutual acceptance of a lump sum *(which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 0327.04.2.1).*

0323.01.3 On the basis of the Cost of the Work *(determined as provided in Paragraphs 0327.04 and 0327.05)* plus a Contractor's Fee for overhead and profit *(determined as provided in Paragraphs 0327.4 and 0327.05).*

- 0323.02 The term Cost of the Work means the sum of all costs necessarily incurred and paid by the Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in Paragraph 0327.03.

0323.02.1 Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include Social Security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing work after regular working hours, on Sunday or legal holidays shall be included in the above to the extent authorized by Owner.



- 0323.02.2** Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith.
- 0323.02.3** Payments made by Contractor to the Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from Subcontractors acceptable to the Contractor and shall deliver such Bids to Owner who will then determine which Bids will be accepted.
- 0323.02.4** Costs of special consultants (*including, but not limited to, engineers, architects, testing laboratories, surveyors, lawyers, and accountants*) employed for services specifically related to the Work.
- 0323.02.5** Supplemental costs including the following:
  - 0323.02.5.1** The proportion of necessary transportation, traveling and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
  - 0323.02.5.2** Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of Contractor.
  - 0323.02.5.3** Rentals of all construction equipment and machinery and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner and the costs of transportation, loading, unloading, installation, dismantling and removal thereof - all in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.
  - 0323.02.5.4** Sales, use or similar taxes related to the Work, and for which Contractor is liable, imposed by any governmental authority.
  - 0323.02.5.5** Deposits lost for causes other than Contractor's negligence, royalty payments and fees for permits and licenses. Costs for permits and licenses must be shown as a separate item.
  - 0323.02.5.6** Losses, damages and expenses, not compensated by insurance or otherwise, sustained by Contractor in connection with the execution of, and to, the Work, provided they have resulted from



causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's Fee.

0323.02.5.7 The cost of utilities, fuel and sanitary facilities at the site.

0323.02.5.8 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.

0323.02.5.9 Cost of premiums for additional Bonds and Insurance required because of changes in the Work.

0323.03 The term Cost of the Work shall not include any of the following:

0323.03.1 Payroll costs and other compensation of Contractor's officers, executives, principals (*of partnership and sole proprietorships*), general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by Contractor whether at the site or in the principal or a branch office for general administration of the Work and not specifically included in the schedule referred to in subparagraph 0327.02.1 - all of which are to be considered administrative costs covered by the Contractor's Fee.

0323.03.2 Expenses of Contractor's principal and branch offices other than the office at the site.

0323.03.3 Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

0323.03.4 Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective work, disposal of materials or equipment wrongly supplied and making good any damage to property.

0323.03.5 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 0327.04.



**0323.04 The Contractor's Fee which shall be allowed to Contractor for his overhead and profit shall be determined as follows:**

**0323.04.1 a mutually acceptable firm fixed price; or if none can be agreed upon.**

**0323.04.2 a fee based on the following percentages of the various portions of the Cost of the Work.**

**0323.04.2.1 for costs incurred under paragraphs 0327.02.1 and 0328.02.2, the Contractor's Fee shall be fifteen percent.**

**0323.04.2.2 for costs incurred under paragraph 0328.02.3, the Contractor's Fee shall be five percent; and if a subcontract is on the basis of Cost of the Work Plus a Fee, the maximum allowable to Contractor on account of overhead and profit of all Subcontractors shall be fifteen percent;**

**0323.04.2.3 no fee shall be payable on the basis of costs itemized under paragraphs 0327.02.4, 0327.02.5, and 0327.03;**

**0323.04.2.4 the amount of credit to be allowed by Contractor to Owner for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in Contractor's Fee by an amount equal to ten percent of the net decrease; and**

**0323.04.2.5 when both additions and credits are involved in any one change, the adjustment in Contractor's Fee shall be computed on the basis of the net change in accordance with paragraphs 0327.04.2.1 through 0328.04.2.4, inclusive.**

**0323.05 Whenever the cost of any Work is to be determined pursuant to Paragraph 0327.02 or 0327.03. Contractor will submit in form acceptable to Owner an itemized cost breakdown together with supporting data.**

#### **0324 CHANGE OF THE CONTRACT TIME**

**The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to Owner within ten days of the occurrence of the event giving rise to the claim. Notice of the extent of the claim with supporting data shall be delivered within forty-five days of such occurrence unless Owner allows an additional period of time to ascertain more accurate data. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.**

**0324.01 The Contract Time will be extended in an amount equal to time lost due to**



delays beyond the control of CONTRACTOR If the Contractor makes a claim therefor as provided in Paragraph 0327.01. Such delays shall include, but not be restricted to, acts or neglect by any separate contractor employed by Owner, fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.

- 0324.02 All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Paragraph 0328 shall not exclude recovery for damages (*including compensation for additional professional services*) for delay by either party.

**0325 CORRECTION OF WORK**

All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the review of the Owner who shall be the final judge of the quality and suitability of the work, material, processes of manufacture and methods of construction for the purposes for which they are used. Should they fail to meet the Owner's approval, they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, at the Contractor's expense. Rejected material shall immediately be removed from the site. If, in the opinion of the Engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgment of the Engineer shall be equitable. It is not intended that the Engineer should be liable for the Contractor's performance of the work nor for safety during construction.

**0326 EXISTING UNDERGROUND UTILITIES AND STRUCTURES**

- 0326.01 The Owners and/or operators of private or public utilities shall have access to such utility at all times, for the installation, maintenance, adjustment, repair and operation of said utility. No extra compensation will be allowed because of the delay or interference caused by such work.
- 0326.02 Wherever existing utilities are encountered which conflict in actual position and location with the proposed work, the Contractor shall promptly notify the Owner for resolution of the conflict.
- 0326.03 The Contractor shall be solely and directly responsible to the Owner and/or other operator of such utility properties for any damage, injury, expense, loss, inconvenience or delay, or for any suits, actions, claims of any character brought on account of any injuries or damages which may result from the carrying out of the work.

**0327 SUBSURFACE CONDITIONS FOUND DIFFERENT**





Should the Contractor encounter sub-surface and/or latent conditions at the site materially differing from those shown on the plans or indicated in the specifications, the Contractor shall immediately give notice to the Owner of such conditions before they are disturbed. The Owner will thereupon promptly investigate the conditions, and if it found that they materially differ from those shown on the plans or indicated in the specifications, the Owner will at once make such changes in the plans and/or specifications as necessary, any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph 0326 of the General Conditions.

**0328 CLAIMS FOR EXTRA WORK**

No claim for extra work or cost shall be allowed unless the same was one in pursuance of a written order of the Owner and approved by the Owner, as aforesaid, and the claim presented with the first estimate after the changed or extra work is done. When work is performed under the terms of Subparagraph 0326 of the General Conditions, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the Owner, give the Owner access to accounts relating thereto.

**0329 RIGHT OF THE OWNER TO TERMINATE CONTRACT**

In the event that any of the provisions of this contract are violated by the Contractor or by any of its Subcontractors, the Owner may serve written notice upon the Contractor and the surety of its intention to terminate the contract, such notices to contain the reasons for such intention to terminate the contract, and unless within ten (10) days after the serving of such notice upon the Contractor such violation or delay shall cease and satisfactory arrangement of correction be made, the contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination the Owner shall immediately serve notice thereof upon the Surety and the Contractor and the Surety shall have the right to take over and perform the contract; provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the Owner may take over the work and prosecute the same to completion by contract or by force account for the account and at the expense of the Contractor and the Contractor and the Surety shall be liable to the Owner for any excess cost occasioned the Owner thereby, and in such event the Owner may take possession of and utilize in completing the work, such materials, appliances and plant as may be on the site of the work and necessary therefor.

**0330 TERMINATION FOR CONVENIENCE**

- 0330.01 The Owner may for any reason whatsoever terminate performance under this Contract by the Contractor for convenience. The Owner shall give written notice of such termination to the Contractor specifying when



termination becomes effective.

0330.02 The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The Owner may direct the Contractor to assign the Contractor's right, title and interest under terminated orders or subcontracts to the Owner or its designee.

0330.03 The Contractor shall transfer title and deliver to the Owner such completed or partially completed Work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has.

0330.04

(a) Within sixty (60) days after its termination for convenience, the Contractor shall submit a termination claim to the Owner and the Architect specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Architect. The claim shall be signed by an officer of the Contractor under oath and under penalty of perjury. IF THE CONTRACTOR FAILS TO FILE A COMPLETE AND PROPER TERMINATION CLAIM WITHIN THE TIME REQUIRED HEREIN ANY CLAIM FOR TERMINATION SHALL BE DEEMED WAIVED AND NO FURTHER SUMS SHALL BE DUE THE CONTRACTOR.

(b) The Owner and the Contractor may agree to the compensation, if any, due to the Contractor hereunder.

(c) Absent agreement to the amount due to the Contractor, and provided Contractor has submitted its claim in accordance with the requirements set forth hereinabove, the Owner shall pay the Contractor the following amounts:

- i. Contract prices for labor, materials, equipment and other services accepted under this Contract;
- ii. Reasonable costs incurred in preparing to perform and in performing the terminated portion of the Work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for overhead and profit thereon (such profit shall not include anticipated profit or consequential damages); provided, however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of



compensation shall be reduced to reflect the anticipated rate of loss, if any;

- III. Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph 033.02 of this Paragraph. These costs shall not include amounts paid in accordance with other provisions hereof.

The total sum to be paid the Contractor under this Subparagraph 0330 shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

#### **0331 CONSTRUCTION SCHEDULE AND PERIODIC ESTIMATES**

Immediately after execution and delivery of the contract, and before the first partial payment is made, the Contractor shall deliver to the Owner an estimated construction progress schedule in form satisfactory to the Owner showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the contract documents and the anticipated amount of each monthly payment that will become due the Contractor in accordance with the progress schedule. The Contractor shall also furnish on forms to be supplied by the Owner, (a) a detailed estimate giving a complete breakdown of the contract price and (b) periodic itemized estimate of work done for the purpose of making partial payments thereon. The costs employed in making up any of these schedules will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the contract price.

#### **0332 PAYMENTS TO CONTRACTORS**

0332.01 No later than thirty (30) days after submittal of a progress payment request the Owner shall make a progress payment to the Contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month under this contract, but to insure the proper performance of this contract, the Owner shall retain ten percent (10%) of the amount of each estimate until final completion and acceptance of all work covered by this contract. Provided, that the Contractor shall submit the estimate not later than the first day of the month; provided, further, that the Owner at any time after fifty percent (50%) of the work has been completed, if it finds that satisfactory progress is being made, may reduce the retainage to 5%.

0332.02 Where a project is under the jurisdiction of a Force Account Agreement between the Owner and the Georgia Department of Transportation, the Contractor shall maintain a *daily* report of the amount of completed work



as shown in the bid proposal. A copy of the accepted report appears in Appendix A at the end of this section and may be reproduced for use on this project. The Contractor's representative shall certify by signature that the report is accurate on behalf of the Contractor for the Owner (*shown as "Utility" on the report*). The Project Engineer representing the Georgia Department of Transportation shall certify by signature that the report is accurate for the "State". A copy of each day's report properly certified as required by this part shall accompany each progress payment request by the Contractor. The quantity of work completed shown on the progress payment request *must* be supported by an equal quantity shown on the daily report for that progress payment period. Payment requested for quantities of work not supported by a properly certified daily report(s) may *not* be recommended for payment by the Owner.

- 0332.03 In preparing estimates, the material delivered on the site and preparatory work done may be taken into consideration. Where a project is under the jurisdiction of a Force Account Agreement between the Owner and the Georgia Department of Transportation, however, material delivered on the site and preparatory work done may *not* be taken into consideration.
- 0332.04 All material and work covered by partial payments made shall thereupon become the sole property of the Owner, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the Owner to require the fulfillment of all of the terms of the contract.
- 0332.05 The Contractor agrees to indemnify and save the Owner harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workmen, mechanics, material suppliers, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary incurred in the furtherance of the performance of this contract. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If the Contractor fails to do so, then the Owner may, after having served written notice on the said Contractor, either pay unpaid bills, of which the Owner has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of this contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the Owner to either the Contractor or the Surety. In paying any unpaid bills of the Contractor, the Owner shall be deemed the agent of the Contractor,



and any payment so made by the Owner shall be considered as a payment made under the contract by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.

0332.06 If at any time the Owner shall determine that the amount of work completed at that time is lagging behind the expired contract time by more than 20 percent, the Owner may determine that the Contractor is not faithfully performing on the contract and therefore the Owner may elect to withhold all monies and refrain from making any additional payments to the Contractor until such time as the Owner determines the work to be progressing satisfactorily.

### 0333 ACCEPTANCE AND FINAL PAYMENT

When the project provided for under this contract shall have been completed by the Contractor, and all parts of the work have been approved by the Owner according to the contract, the Owner shall, within ten (10) days unless otherwise provided, make Final Inspection and advise the Contractor as to preparing a final estimate, showing the value of work as soon as the necessary measurements and computations can be made, all prior certificates or estimates upon which payments have been being made are approximately only, and subject to correction in the final payment. The amount of the final estimates, less any sums that may have been deducted or retained under the provisions of this contract, will be paid to the Contractor within sixty (60) days after approval by the Owner, provided that the contractor has properly maintained and operated the project as specified under these specifications, and provided, that Contractor has furnished to the Owner a sworn affidavit to the effect that all bills are paid and no suits are pending in connection with the work done or labor and material furnished under this contract. A sample affidavit appears at the end of this section to be considered as an example of an acceptable affidavit.

### 0334 PAYMENTS BY CONTRACTORS

The Contractor shall pay (a) for all transportation and utility services not later than the 20th day of the calendar month following that in which such services are rendered, (b) for all materials, tools, and other expendable equipment to the extent of 90 percent of the cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools and equipment are delivered at the site of the project, and the balance of the cost thereof not later than the 30th day following the completion of that part of the work in or on which such materials, tools and equipment are incorporated or used, and (c) to each of the Subcontractors, not later than the 5th day following each payment to the Contractor, the respective amounts allowed the Contractor on account of the work performed by the Subcontractors to the extent of each Subcontractor's interest therein.



### **0335 CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE**

**0335.01** The Contractor shall not commence work under this Contract until he has obtained all the insurance required under this paragraph and such insurance has been reviewed by the Owner, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until the insurance has been so obtained and reviewed.

**0335.01.1 Contractor's Liability Insurance:** Contractor shall purchase and maintain such comprehensive general liability and other insurance as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the work and Contractor's other obligations under the Contract Documents, whether such performance is indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

**0335.01.1.1** Claims under workers' or workmen's compensation, disability benefits and other similar employees benefit acts;

**0335.01.1.2** Claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

**0335.01.1.3** Claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

**0335.01.1.4** Claims for damages insured by personal injury liability coverage which are sustained (i) by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or (ii) by any other person for any other reason.

**0335.01.1.5** Claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and

**0335.01.1.6** Claims for damages because of bodily injury or death of any person or property damage arising out of the Ownership, maintenance or use of any motor vehicle.

The insurance required by this paragraph shall include the specific coverages and be written for not less than the limits of liability and coverages provided in these specifications, or required by law, whichever is greater. The comprehensive general liability insurance shall include completed operations insurance. All such insurance shall contain a provision that the coverage afforded will not be cancelled, materially changed or renewal refused until at least thirty days prior written notice has been given to Owner. All



such insurance shall remain in effect until final payment and at all times thereafter when Contractor may be correcting, removing or replacing defective work. In addition, Contractor shall maintain such completed operations insurance for at least one year after final payment and furnish Owner with evidence of continuation of such insurance at final payment. Renewal certificates shall be sent to the Owner 30 days prior to the expiration date of any policy required herein.

- 0335.02 Contractual Liability Insurance: The comprehensive general liability insurance required by paragraph 0338.01.1 will include contractual liability insurance applicable to Contractor's obligations under separate contract and subcontracting.
- 0335.03 Unless otherwise provided in these General Conditions, Contractor shall purchase and maintain property insurance upon the work at the site to the full insurable value thereof (*subject to such deductible amounts as may be provided in these general conditions or required by law*). This insurance shall include the interest of Owner, Contractor and Subcontractors in the work, shall provide "all risk" insurance for physical loss and damage including but not limited to fire, lightning, windstorms, hail, smoke, explosion, riot, aircraft, vehicles, falling objects, flood, earthquake, theft, vandalism, malicious mischief, collapse, water damage and other perils, and shall include damages, losses and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (*including fees and charges of engineers, architects, attorneys and other professionals*). If not covered under the "all risk" insurance or otherwise provided in these General Conditions, Contractor shall purchase and maintain similar property insurance on portions of the work stored on and off the site or in transit when such portions of the work are to be included in an Application for Payment. The policies of insurance required to be purchased and maintained by Contractor in accordance with paragraphs c and d shall contain a provision that the coverage afforded will not be cancelled, materially changed or renewal refused until at least thirty days prior written notice has been given to the Owner.
- 0335.04 Contractor shall purchase and maintain such boiler and machinery insurance as may be required by these General Conditions or by law. This insurance shall include the interest of Owners, Contractor and Subcontractors in the work and shall provide coverage for all installed and functional mechanical equipment for the full replacement value of the equipment.
- 0335.05 Owner shall not be responsible for purchasing and maintaining any property insurance to protect the interests of Contractor or Subcontractors



In the work to the extent of any deductible amounts that are provided in the supplemental conditions. If Contractor wishes property Insurance coverage within the limits of such amounts, Contractor may purchase and maintain it at his own expense.

- 0335.06 If Owner has any objection to the coverage afforded by or other provisions of the Insurance required to be purchased and maintained by Contractor in accordance with paragraphs 0338.01.1. through 0338.01.1.4., Owner will notify Contractor thereof within ten days of the date of delivery of such certificates, to Owner. Contractor will provide to the Owner such additional information in respect of insurance provided by the Contractor as Owner may reasonably request. The right of the Owner to review and comment on Certificates of Insurance is not intended to relieve the Contractor of the responsibility to provide insurance coverage as specified nor to relieve the Contractor of the liability for any claims which might arise.
- 0335.07 Partial Utilization - Property Insurance: If Owner finds it necessary to occupy or use a portion or portions of the work prior to Substantial Completion of all the work, such use or occupancy may be accomplished provided that no such use or occupancy shall commence before the insurers providing the property insurance have acknowledged notice thereof and in writing effected the changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be cancelled or lapse on account of any such partial use or occupancy.
- 0335.08 The Contractor shall carry and maintain Combined Excess Liability (*Umbrella*) Insurance for a limit of not less than the following:
- Each Occurrence: \$3,000,000
- Aggregate: \$3,000,000
- 0335.09 The limits of liability for the Insurance required by paragraph 36.1.1. of the General Conditions shall provide coverage for not less than the following amounts or greater where required by law:

For claims under paragraph 0338.01.1.1. and 0338.01.1.2., Worker's Compensation:

State	Statutory
Federal	Statutory
Employer's Liability – Each Accident:	\$1,000,000
Employer's Liability – Disease – Each Employee:	\$1,000,000





**Employer's Liability – Disease – Policy Limit: \$1,000,000**

If the Contractor chooses to maintain a policy with a maximum of the state mandated amounts of \$100,000 per accident, \$100,000 for disease per employee and a disease policy limit of \$500,000, the Contract required minimum of \$1,000,000 can be achieved by the excess liability policy required by paragraph 0338.08 above.

For claims under 0339.01.1.1. through 0339.01.1.5. (*General Liability*),

**General Liability Provided Per Occurrence**

Each Occurrence (Bodily and Property Damage Included):	\$1,000,000
Fire Damage ( <i>Any One Fire</i> ):	\$50,000
Medical Expense ( <i>Any One Person</i> ):	\$5,000

Personal and Adv Injury, With Employment	
Exclusion Deleted:	\$1,000,000
General Aggregate ( <i>Per Project</i> ):	\$2,000,000
Products and Completed Operations Aggregate:	\$1,000,000

Notes: Property Damage Liability Insurance will provide explosion, collapse and underground hazard coverages where applicable. Each detonation of blasting shall be considered a single occurrence. General Liability shall include Contractual Liability as stipulated in Paragraph 0339.02. above.

**Comprehensive Automobile Liability:**  
**Combined Single Limit Per Occurrence, For Any and**  
**All Autos, Including Bodily Injury and Property Damage: \$1,000,000**

**0335.10 Scope of Insurance and Special Hazards -** The amounts stated in subparagraph 0334.09 above are minimum amounts of insurance to be carried. The Contractor shall carry such additional insurance as may be required to provide adequate protection of the Contractor and the Subcontractors, respectively, against any and all damage claims which may arise from operations under this Contract, whether such operations be by the Insured or by anyone directly or indirectly employed by the Contractor and, also, against any of the special hazards which may be encountered in the performance of this Contract.

Where the scope of work involves crossing of a railway and/or railway rights-of-way, Contractor shall be required to furnish railway with a Railroad Protective Liability Insurance Policy naming railway as the named insured and issued to the Contractor with a combined single limit of



\$2,000,000 for all damages arising out of bodily injury, death, property damage liability and physical damage to property liability per occurrence with an aggregate limit of \$6,000,000.

**0335.11 Certificate Holder should read:**

**CITY OF DALTON  
P.O. BOX 1205  
DALTON, GEORGIA 30722**

**0335.12 Insurance company must have an A.M. Best Rating of A-6 or higher. Insurance company must be licensed to do business by the Georgia Secretary of State. Insurance company must be authorized to do business in the State of Georgia by the Georgia Insurance Department.**

**0336 CONTRACT SECURITY**

The Contractor shall furnish a Construction Performance Bond in an amount at least equal to one hundred percent (100%) of the contract prices as security for the faithful performance of this contract and also a Construction Payment Bond in an amount at least equal to one hundred percent (100%) of the contract price or in a penal sum not less than that prescribed by State, Territorial or local law, as security for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract. The performance bond and the payment bond may be in one or in separate instruments in accordance with local law.

**0337 ADDITIONAL OR SUBSTITUTE BOND**

If at any time the Owner for justifiable cause shall be or become dissatisfied with any Surety or Sureties, then upon the Construction Performance or Payment Bonds, the Contractor shall within five (5) days after notice from the Owner to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other Surety or Sureties as may be satisfactory to the Owner. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to the Owner.

**0338 LIEN**

Neither the final payment nor any part of the retained percentage will become due until the Contractor, if required, shall furnish the Owner a complete release from any liens which may arise out of this contract, or receipts in full in lieu thereof, and if required in either case, an affidavit that insofar as he has knowledge or information, the release and receipts include all materials, for which a lien might be filed. The Contractor may, if any Subcontractor refuses to



furnish a release or receipt in full, furnish a bond satisfactory to the Owner to indemnify it against any lien. If a lien shall remain unsatisfied after all payments are made, then the Contractor shall refund to the Owner all monies which the latter may be compelled to pay in discharging such lien, including all incidental costs and attorney's fees.

**0339 ASSIGNMENTS**

The Contractor shall not assign the whole or any part of this contract or any money due to or to become due hereunder without written consent of the Owner. In case the Contractor assigns all or part of any money due or to become due under this contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assigned in and to any money due or to become due to the Contractor shall be subject to prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this contract.

**0340 MUTUAL RESPONSIBILITY OF CONTRACTORS**

If through acts of neglect on the part of the Contractor, any other Contractor or subcontractor, shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or subcontractor by agreement or arbitration, if such other contractor or subcontractor will so settle. If such other Contractor or subcontractor shall assert any claim against the Owner on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor, who shall indemnify and save harmless the Owner against any such claim.

**0341 COORDINATION WITH OTHER CONTRACTORS**

The Contractor shall coordinate all operations with those of other contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The Contractor, including Subcontractors shall keep informed of the progress and the detail work of other Contractors and shall notify the Owner immediately of lack of progress or defective work on the part of other contractors. Failure of a Contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective work by others shall be construed as acceptance by the Contractor of the status of the work as being satisfactory for proper coordination with the work.

**0342 SUBCONTRACTING**

The Contractor shall utilize the service of specialty subcontractor on those parts of the work which, under normal contracting practices, are performed by specialty Subcontractors. Provided - that if the Owner shall determine that the specialty work in question has been customarily performed by the Contractor's own



organization and that such organization is presently competent to perform such work, the Contractor shall be permitted to do so. Provided, further - that if the Owner shall determine that the performance of any specialty work by specialty Subcontractors will result in materially increased costs or inordinate delays, the requirements of this paragraph shall not apply.

0342.01 The Contractor shall not be allowed to award work to any subcontractor prior to written approval of the Owner, which approval will not be given until the Contractor submits to the Owner, a written statement concerning the proposed award to the subcontractor, which statement shall contain such information as the Owner may require.

0342.02 The Contractor shall be as fully responsible to the Owner for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, as the Contractor is for the acts and omissions of persons directly employed by the Contractor.

0342.03 The Contractor shall cause appropriate provisions to be inserted in all Subcontracts relative to the work to bind subcontractors to the Contractor by the terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the Contract Documents.

0342.04 Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the Owner.

**0343 USE OF PREMISES AND REMOVAL OF DEBRIS**

The Contractor expressly undertakes the expenses of:

0343.01 To take every precaution against injuries to persons or damage to property;

0343.02 To store all apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of the work or the work of any other Contractors;

0343.03 To place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work.

0343.04 To clean up frequently all refuse, rubbish, scrap materials, and debris caused by the operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance;



- 0343.05 Before final payment to remove all surplus material, false work, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from the operations, and to put the site in a neat orderly condition;

0344 QUANTITIES OF ESTIMATE

Wherever the estimated quantities of work to be done and materials to be furnished under this contract are shown in any of the documents including the proposal, they are given for use in comparing bids and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the Owner to complete the work contemplated by this Contract, and such increase or diminution shall in no way vitiate this Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

0345 RIGHTS-OF-WAY AND SUSPENSION OF WORK

The Owner shall furnish all land and rights-of-way necessary for the carrying out of this Contract and the completion of the work herein contemplated and will use due diligence in acquiring said land and rights-of-way as speedily as possible. But it is possible that all lands and rights-of-way may not be obtained as herein contemplated before construction begins, in which event the Contractor shall begin his work upon such land and rights-of-way as the Owner may have previously acquired, and no claim for damages whatsoever will be allowed by reason of the delay in obtaining the remaining lands and rights-of-way. Should the Owner be prevented or enjoined from proceeding with the work, or from authorizing its prosecution, either before or after the commencement, by reason of any litigation, or by reason of its inability to procure any lands or rights-of-way for the said work, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay, or, to withdraw from the contract except by consent of the Owner, but time for completion of the work will be extended to such time as the Owner determines will compensate for the time lost by such delay, such determination to be set forth in writing.

0346 GUARANTY

- 0346.01 All work constructed under this contract shall be fully guaranteed by the Contractor for a period of one year from the date of final inspection and acceptance by the Owner. This guarantee shall cover any and all defects in workmanship or materials that may develop in this specified time, and any failure in such workmanship or materials shall be repaired or replaced to the satisfaction of the Owner by the Contractor at the Contractor's expense.

- 0346.02 Neither the final certificate of payment nor any provision in the contract



documents nor partial or entire occupancy of the premises by the Owner shall constitute an acceptance of work not done in accordance with the contract documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship.

**0347 CONFLICTING CONDITIONS**

Any provisions in any of the contract documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

**0348 NOTICE AND SERVICE THEREOF**

Any notice to any Contractor from the Owner relative to any part of this contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified or registered mail, to the said Contractor at his last given address, or delivered in person to the said Contractor or an authorized representative on the work.

**0349 PROVISIONS REQUIRED BY LAW DEEMED INSERTED**

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

**0350 SUSPENSION OF WORK**

Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the Owner, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable time as the Owner may determine will compensate for time lost by such delay with such determination to be set forth in writing.

**0351 PROTECTION AND RESTORATION OF PROPERTY**

0351.01 The Contractor shall not enter upon private property for any purpose without first obtaining permission, and shall use every precaution necessary to prevent damage or injury to any public or private property, trees, fences, monuments, underground structures, etc., on and adjacent to the site of the work. The Contractor shall protect carefully, from disturbance or damage, all land monuments and property marks until an



authorized agent has witnessed or otherwise referenced their location, and shall not remove them until directed.

**0351.02** Except as specifically provided in the Contract Documents, the Contractor shall not do any work that would affect any railway track, pipeline, telephone, telegraph, or electric or transmission line, or other structure nor enter upon the right-of-way or other lands appurtenant thereto, until authority therefore has been secured from the proper parties. The Contractor shall not be entitled to any extension of time or any extra compensation on account of any postponement, interference, or delay resulting from this requirement, except as specifically provided in the contract.

**0351.03** The Contractor shall be responsible for all damage or injury to property of any character resulting from any act, omission, neglect, or misconduct in the manner or method of executing said work, or due to non-execution of said work, or at any time due to defective work or materials, and shall not be released from said responsibility until the work shall have been completed and accepted.

**0351.04** When or where any direct or indirect damage or injury is done to public or private property by, or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence of the non-execution thereof on the part of the Contractor, the Contractor shall restore at the Contractor's own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring, as may be directed, or else shall make good such damage or injury in an acceptable manner.

#### **0352 RESPONSIBILITY FOR DAMAGE CLAIMS**

The Contractor shall be responsible for all injury or damage of any kind resulting from the work, to persons or property. The Contractor hereby assumes the obligation to indemnify and save harmless the Owner including associates, agents and representatives, from every expense, liability, or payment arising out of or through injury to any person or persons including death and loss of services, or damage to property, regardless of who may be the Owner of the property, suffered through any cause whatsoever in the construction work involved in the contract and to defend on their behalf any suit brought against them arising from any such cause.

#### **0353 INTEREST OF FEDERAL, STATE OR LOCAL OFFICIALS**

No Federal, State or Local official shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general



benefit.

**0354 OTHER PROHIBITED INTERESTS**

No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept or approve or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

**0355 USE OF CHEMICALS**

All chemicals used during project construction or furnished for project operation, whether herbicide, pesticide, disinfectant, polymer, reactant or of other classification, must show approval of either E.P.A., or U.S.D.A. Use of all such chemicals and disposal of residues shall be in strict conformance with instructions.

**0356 MAINTENANCE OF TRAFFIC**

- 0356.01 The Contractor shall notify the Owner and the appropriate department of transportation prior to performing any work which disrupts normal flow of traffic, and shall utilize appropriate warning signs, flaggers and other procedures necessary to ensure safety and minimize inconvenience to the public.

**0357 ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE**

The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor or the Sureties from any obligations under this contract or the Construction Performance and Payment Bond.

**0358 OWNER'S RIGHT TO SUSPEND WORK**

The Owner shall have the authority to suspend the work, wholly or in part as





deemed necessary because of conditions unsuitable for proper prosecution of the work or failure on the part of the Contractor to carry out the provisions or to meet the specified requirements. The Contractor shall not suspend operations without the Owner's permission.

**0359 TIME FOR COMPLETION AND LIQUIDATED DAMAGES**

- 0359.01 It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are **ESSENTIAL CONDITIONS** of this contract; and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "NOTICE TO PROCEED."
- 0359.02 The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.
- 0359.03 If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay to the Owner the amount specified in the contract, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work.
- 0359.04 The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amount shall be retained from time to time by the Owner from current periodical estimates.
- 0359.05 It is further agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where, under the contract, an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided, that the Contractor shall not be charged with liquidated damages or any excess cost when the Owner determines that the Contractor is without fault and the Contractor's reasons for the time



extension are acceptable to the Owner; provided, further, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

0359.05.1 To any preference, priority or allocation order duly issued by the Government;

0359.05.2 To unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and

0359.05.3 To any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections 0369.05.1 and 0369.05.2 of this article.

0359.06 Provided, further, that the Contractor shall, within ten (10) days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the contract, notify the Owner, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay, and notify the Contractor within a reasonable time of its decision in this matter.

..... END OF SECTION .....



### Local Government Approval

This form is required for Emergency Shelter applications only.

**To:** Georgia Department of Community Affairs  
**Subject:** 2017 Application for Emergency Solutions Grants Program (ESG)  
**Applicant:** Northwest Georgia Family Crisis Center, Inc. **HMIS Agency Name:** N/A

Based on a review of the application and/or supporting documents submitted by the above named applicant –  
1. The projects named below are within the jurisdiction of this local government; and  
2. The projects are approved for funding consideration by DCA.

Project Name	Project Type – Application I - Emergency Shelter	HMIS Project Name	Amount Requested
Northwest Georgia Family Crisis Center, Inc. - Emergency Shelter Program	Emergency Shelter	N/A	\$30,000.00
Total DCA Funds Requested:			\$30,000.00

In making this approval, we reserve the right to withdraw it, in whole or in part, at any time.

City of Dalton

Name of Approving Local Government

By: **Mayor Dennis Mock**

Name of Authorized Official

Signature of Authorized Official

Date

*Note that local government approval is required by law for nonprofit ESG applicants seeking emergency shelter funding. Local boards and authorities are encouraged to collaborate and plan with local governments, Continuums of Care and other organizations that serve persons experiencing or at risk of homelessness, but do not have to obtain official local approval. Please return executed approval to Applicant. This format is designed and ESG is administered by the Office of Homeless and Special Needs Housing, GA Department of Community Affairs (DCA), 60 Executive Park South, NE, Atlanta, GA 30329. DCA Contact: John Shereikis, (404) 679-0609, email: john.shereikis@dca.ga.gov.*

## Certification of Consistency with the Local HUD Consolidated Plan

*Note – Duplicate this form for multiple submissions if requesting ESG funds for projects within multiple Consolidated Plan Jurisdictions*

### HUD Local Consolidated Plan Jurisdiction (Choose Only One):

- |   |   |  |   |
|---|---|--|---|
| <input type="checkbox"/> Albany           | <input type="checkbox"/> Cobb County          | <input type="checkbox"/> Gainesville     | <input type="checkbox"/> Savannah           |
| <input type="checkbox"/> Athens-Clarke    | <input type="checkbox"/> (including Marietta) | <input type="checkbox"/> Gwinnett County | <input type="checkbox"/> Valdosta           |
| <input type="checkbox"/> Atlanta          | <input type="checkbox"/> Columbus-Muscogee    | <input type="checkbox"/> Henry County    | <input type="checkbox"/> Warner Robins      |
| <input type="checkbox"/> Augusta-Richmond | <input checked="" type="checkbox"/> Dalton    | <input type="checkbox"/> Hinesville      |   |
| <input type="checkbox"/> Brunswick        | <input type="checkbox"/> DeKalb County        | <input type="checkbox"/> Johns Creek     | <input type="checkbox"/> Not Applicable for |
| <input type="checkbox"/> Cherokee County  | <input type="checkbox"/> Fulton County        | <input type="checkbox"/> Macon           | Balance of State –                          |
| <input type="checkbox"/> Clayton County   | <input type="checkbox"/> (including Roswell)  | <input type="checkbox"/> Rome            | Form Not Required                           |
|   |   | <input type="checkbox"/> Sandy Springs   |   |

Certification to the Georgia Department of Community Affairs:

I certify that the proposed project(s) in the 2017 Emergency Solutions Grants Program Application submitted to the Georgia Department of Community Affairs, as indicated below, is/are consistent with this jurisdiction's current, approved Consolidated Plan.

Applicant Legal Name: Northwest Georgia Family Crisis Center, Inc.

Project Name(s): Northwest Georgia Family Crisis Center, Inc. - Emergency Shelter Program

Project Type: Emergency Shelter

Location(s) of the Project(s): Dalton, Georgia

*In accordance with the HEARTH Act of 2009, Consolidated Plan jurisdictions must work to ensure the confidentiality of records pertaining to any individual served by a victim service provider who receives housing or services under any project assisted. The address or location of any family violence facility assisted under this program will, except with written authorization of the person or persons responsible for the operation of such facility and program, not be made public. The term 'victim service provider' means a community-based organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. Such term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.*

Name of the Federal Program to which the applicant is applying: ☒ Emergency Solutions Grants ☐ HOPWA

Name of Certifying Jurisdiction: City of Dalton

Typed Name and Title of Certifying Official of the Jurisdiction:

Mayor Dennis Mock

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*Please return executed Certification to Applicant. This format designed and administered by the Office of Homeless and Special Needs Housing, GA Department of Community Affairs (DCA), 60 Executive Park South, NE, Atlanta, GA 30329. DCA Contact: John Shereikis, (404) 679-0609, email john.shereikis@dca.ga.gov*

**Local Government Approval**

This form is required for Emergency Shelter applications only.

**To:** Georgia Department of Community Affairs

**Subject:** 2017 Application for Emergency Solutions Grants Program (ESG)

**Applicant:** Dalton-Whitfield Community Development

**HMIS  
Agency  
Name:**

Based on a review of the application and/or supporting documents submitted by the above named applicant –

1. The projects named below are within the jurisdiction of this local government; and
2. The projects are approved for funding consideration by DCA.

Project Name	Project Type – Application I - Emergency Shelter	HMIS Project Name	Amount Requested
SPC Case Manager	SPC Supportive Services		25,000
Street Outreach	VI. Street Outreach	new	30,000
Rapid Rehousing	V. Rapid Rehousing	new	30,000
Hotel/Motel Vouchers	VII. Hotel/Motel Vouchers		25,000
Total DCA Funds Requested:			110,000

In making this approval, we reserve the right to withdraw it, in whole or in part, at any time.

\_\_\_\_\_  
Name of Approving Local Government

By:

\_\_\_\_\_  
Name of Authorized Official

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Date

*Note that local government approval is required by law for nonprofit ESG applicants seeking emergency shelter funding. Local boards and authorities are encouraged to collaborate and plan with local governments, Continuums of Care and other organizations that serve persons experiencing or at risk of homelessness, but do not have to obtain official local approval. Please return executed approval to Applicant. This format is designed and ESG is administered by the Office of Homeless and Special Needs Housing, GA Department of Community Affairs (DCA), 60 Executive Park South, NE, Atlanta, GA 30329. DCA Contact: John Shereikis, (404) 679-0609, email: john.shereikis@dca.ga.gov.*

## Certification of Consistency with the Local HUD Consolidated Plan

*Note – Duplicate this form for multiple submissions if requesting ESG funds for projects within multiple Consolidated Plan Jurisdictions*

### HUD Local Consolidated Plan Jurisdiction (Choose Only One):

- |   |  |  |   |
|---|--|--|---|
| <input type="checkbox"/> Albany           | <input type="checkbox"/> Cobb County       | <input type="checkbox"/> Gainesville     | <input type="checkbox"/> Savannah           |
| <input type="checkbox"/> Athens-Clarke    | (including Marietta)                       | <input type="checkbox"/> Gwinnett County | <input type="checkbox"/> Valdosta           |
| <input type="checkbox"/> Atlanta          | <input type="checkbox"/> Columbus-Muscogee | <input type="checkbox"/> Henry County    | <input type="checkbox"/> Warner Robins      |
| <input type="checkbox"/> Augusta-Richmond | <input checked="" type="checkbox"/> Dalton | <input type="checkbox"/> Hinesville      |   |
| <input type="checkbox"/> Brunswick        | <input type="checkbox"/> DeKalb County     | <input type="checkbox"/> Johns Creek     | <input type="checkbox"/> Not Applicable for |
| <input type="checkbox"/> Cherokee County  | <input type="checkbox"/> Fulton County     | <input type="checkbox"/> Macon           | Balance of State –                          |
| <input type="checkbox"/> Clayton County   | (including Roswell)                        | <input type="checkbox"/> Rome            | Form Not Required                           |
|   |  | <input type="checkbox"/> Sandy Springs   |   |

Certification to the Georgia Department of Community Affairs:

I certify that the proposed project(s) in the 2017 Emergency Solutions Grants Program Application submitted to the Georgia Department of Community Affairs, as indicated below, is/are consistent with this jurisdiction's current, approved Consolidated Plan.

Applicant Legal Name: Dalton-Whitfield Community Development Corporation

Project Name(s): SPC Case Manager, Street Outreach, Rapid Rehousing, & Motel Vouchers

Project Type: Case Manager, Street Outreach Worker, and housing options

Location(s) of the Project(s): The City of Dalton

*In accordance with the HEARTH Act of 2009, Consolidated Plan jurisdictions must work to ensure the confidentiality of records pertaining to any individual served by a victim service provider who receives housing or services under any project assisted. The address or location of any family violence facility assisted under this program will, except with written authorization of the person or persons responsible for the operation of such facility and program, not be made public. The term 'victim service provider' means a community-based organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. Such term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.*

Name of the Federal Program to which the applicant is applying: ☒ Emergency Solutions Grants ☐ HOPWA

Name of Certifying Jurisdiction: The City of Dalton

Typed Name and Title of Certifying Official of the Jurisdiction:

\_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*Please return executed Certification to Applicant. This format designed and administered by the Office of Homeless and Special Needs Housing, GA Department of Community Affairs (DCA), 60 Executive Park South, NE, Atlanta, GA 30329. DCA Contact: John Shereikis, (404) 679-0609, email john.shereikis@dca.ga.gov*

### Local Government Approval

This form is required for Emergency Shelter applications only.

**To:** Georgia Department of Community Affairs

**Subject:** 2017 Application for Emergency Solutions Grants Program (ESG)

**Applicant:** Living Room, Inc.

**HMIS**

**Agency Name:** Living Room, Inc.

Based on a review of the application and/or supporting documents submitted by the above named applicant –

1. The projects named below are within the jurisdiction of this local government; and
2. The projects are approved for funding consideration by DCA.

Project Name	Project Type – Application I - Emergency Shelter	HMIS Project Name	Amount Requested
Northwest Georgia Project	HOPWA	Living Room HOPWA NWGA	\$260,000
		<b>Total DCA Funds Requested:</b>	

In making this approval, we reserve the right to withdraw it, in whole or in part, at any time.

\_\_\_\_\_  
Name of Approving Local Government

By:

\_\_\_\_\_  
Name of Authorized Official

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Date

*Note that local government approval is required by law for nonprofit ESG applicants seeking emergency shelter funding. Local boards and authorities are encouraged to collaborate and plan with local governments, Continuums of Care and other organizations that serve persons experiencing or at risk of homelessness, but do not have to obtain official local approval. Please return executed approval to Applicant. This format is designed and ESG is administered by the Office of Homeless and Special Needs Housing, GA Department of Community Affairs (DCA), 60 Executive Park South, NE, Atlanta, GA 30329. DCA Contact: John Shereikis, (404) 679-0609, email: john.shereikis@dca.ga.gov.*

## **Certification of Consistency with the Local HUD Consolidated Plan**

*Note – Duplicate this form for multiple submissions if requesting ESG funds for projects within multiple Consolidated Plan Jurisdictions*

HUD Local Consolidated Plan Jurisdiction (Choose Only One):

- |   |   |  |  |
|---|---|--|--|
| <input type="checkbox"/> Albany           | <input type="checkbox"/> Cobb County<br>(including Marietta)  | <input type="checkbox"/> Gainesville     | <input type="checkbox"/> Savannah  |
| <input type="checkbox"/> Athens-Clarke    | <input type="checkbox"/> Columbus-Muscogee                    | <input type="checkbox"/> Gwinnett County | <input type="checkbox"/> Valdosta  |
| <input type="checkbox"/> Atlanta          | <input checked="" type="checkbox"/> Dalton                    | <input type="checkbox"/> Henry County    | <input type="checkbox"/> Warner Robins   |
| <input type="checkbox"/> Augusta-Richmond | <input type="checkbox"/> DeKalb County                        | <input type="checkbox"/> Hinesville      | <input type="checkbox"/> Not Applicable for<br>Balance of State –<br>Form Not Required |
| <input type="checkbox"/> Brunswick        | <input type="checkbox"/> Fulton County<br>(including Roswell) | <input type="checkbox"/> Johns Creek     |  |
| <input type="checkbox"/> Cherokee County  |   | <input type="checkbox"/> Macon           |  |
| <input type="checkbox"/> Clayton County   |   | <input type="checkbox"/> Rome            |  |
|   |   | <input type="checkbox"/> Sandy Springs   |  |

Certification to the Georgia Department of Community Affairs:

I certify that the proposed project(s) in the 2017 Emergency Solutions Grants Program Application submitted to the Georgia Department of Community Affairs, as indicated below, is/are consistent with this jurisdiction's current, approved Consolidated Plan.

Applicant Legal Name: Living Room, Inc.

Project Name(s): Northwest Georgia Project

Project Type: Long Term Rental Assistance

Location(s) of the Project(s): Dalton, District 1-2 Health Department

*In accordance with the HEARTH Act of 2009, Consolidated Plan jurisdictions must work to ensure the confidentiality of records pertaining to any individual served by a victim service provider who receives housing or services under any project assisted. The address or location of any family violence facility assisted under this program will, except with written authorization of the person or persons responsible for the operation of such facility and program, not be made public. The term 'victim service provider' means a community-based organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. Such term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.*

Name of the Federal Program to which the applicant is applying: ☐ Emergency Solutions Grants ☒ HOPWA

Name of Certifying Jurisdiction: \_\_\_\_\_

Typed Name and Title of Certifying Official of the Jurisdiction:

\_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*Please return executed Certification to Applicant. This format designed and administered by the Office of Homeless and Special Needs Housing, GA Department of Community Affairs (DCA), 60 Executive Park South, NE, Atlanta, GA 30329. DCA Contact: John Shereikis, (404) 679-0609, email john.shereikis@dca.ga.gov*



## **ORDINANCE 17-03**

To Make Findings Of Fact Concerning the Public Use And Necessity Of A Section Of Memorial Drive; To Vacate And Abandon The Public Interest In And To The Said Section Of Memorial Drive For Purposes Of Public Street And Transportation; To Declare The Closing Of Such Section Of Memorial Drive For Public Use And Transportation; To Authorize Delivery Of A Quitclaim Deed Of Any Interest Of The City Of Dalton In Said Street Section To Hamilton Medical Center, Inc. Except For Utility And Emergency Easements; To Establish An Effective Date; And For Other Purposes.

**BE IT ORDAINED** by the Mayor and Council of the City of Dalton and by authority of the same **IT IS HEREBY ORDAINED** as follows:

### **Section 1**

Upon investigation and inquiry, the Mayor and Council find that it is in the best interest of the public that the below described section of Memorial Drive in the City of Dalton, Whitfield County, Georgia, as shown on the survey by Donald O. Babb, Georgia Registered Land Surveyor No. 2029 dated February 21, 2017 and pertaining to Land Lot 183, 12<sup>th</sup> District, 3<sup>rd</sup> Section, Whitfield County, Georgia, attached hereto as Exhibit B and made a part hereof, be abandoned and no longer used as a public street or for transportation purposes:

See Exhibit A attached hereto and incorporated herein by reference for complete description of said section of Memorial Drive.

### **Section 2**

Hamilton Medical Center, Inc. is the owner of all property adjacent to the street section to be closed and is the requestor for said street closing.

### **Section 3**

The section of Memorial Drive to be closed shall no longer be a part of the municipal street system of the City of Dalton and the rights of the public in and to those sections for public street, road and transportation purposes shall cease upon the effective date of this Ordinance.

**Section 4**

The Mayor and City Clerk are authorized to make and enter in the name and on behalf of the City of Dalton a quitclaim deed of all interest, except for utility and emergency easements, of the City of Dalton in and to the section to be closed to Hamilton Medical Center, Inc.

**Section 5**

This Ordinance shall be effective upon the posting of this Ordinance in two (2) public places in the City of Dalton for five (5) consecutive days following its enactment by the Mayor and Council, the public health, safety, and welfare requiring it.

**Section 6**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 7**

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

**SO ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, 2017.

The foregoing Ordinance received its first reading on \_\_\_\_\_ and a second reading on \_\_\_\_\_. Upon second reading a motion for passage of the ordinance was made by Alderman \_\_\_\_\_, second by Alderman \_\_\_\_\_ and upon the question the vote is \_\_\_\_ ayes, \_\_\_\_ nays and the Ordinance is adopted.

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

## EXHIBIT A

All that tract or parcel of land lying and being in Land Lot No. 183 in the 12th District and 3rd Section of Whitfield County, Georgia and being a portion of Memorial Drive located within the City of Dalton, Georgia, and being more particularly described according to a plat of survey prepared for Hamilton Medical Center, by Donald O. Babb, Georgia Registered Land Surveyor No. 2029, dated February 21, 2017, and being more particularly described according to said survey as follows:

BEGINNING at the existing southeast corner of the intersection of east right of way line of Broadrick Drive (60' R/W) and the existing south right of way line of Memorial Drive (50' R/W); thence north 00 degrees 43 minutes 32 seconds east, along the east right of way line of Broadrick Drive, a distance of 50.0 feet to the existing northeast corner of the intersection of east right of way line of Broadrick Drive and the existing north right of way line of Memorial Drive; thence north 89 degrees 25 minutes 28 seconds east, along the existing north right of way line of Memorial Drive, a distance of 195.94 feet; thence north 89 degrees 43 minutes 30 seconds east, along the existing north right of way line of Memorial Drive, a distance of 90.93 feet; thence running in a southerly direction, along the proposed cul-de-sac located at the proposed westerly terminus of Memorial Drive, along an arc to the left (53.50' Radius), an arc distance of 53.36 feet, said curve being subtended by a chord with a bearing of south 12 degrees 33 minutes 48 seconds west and a chord distance of 51.17 feet; thence north 89 degrees 43 minutes 30 seconds west, along the existing south right of way line of Memorial Drive, a distance of 80.17 feet; thence north 89 degrees 25 minutes 28 seconds west, along the existing south right of way line of Memorial Drive, a distance of 193.07 feet, to the POINT OF BEGINNING.

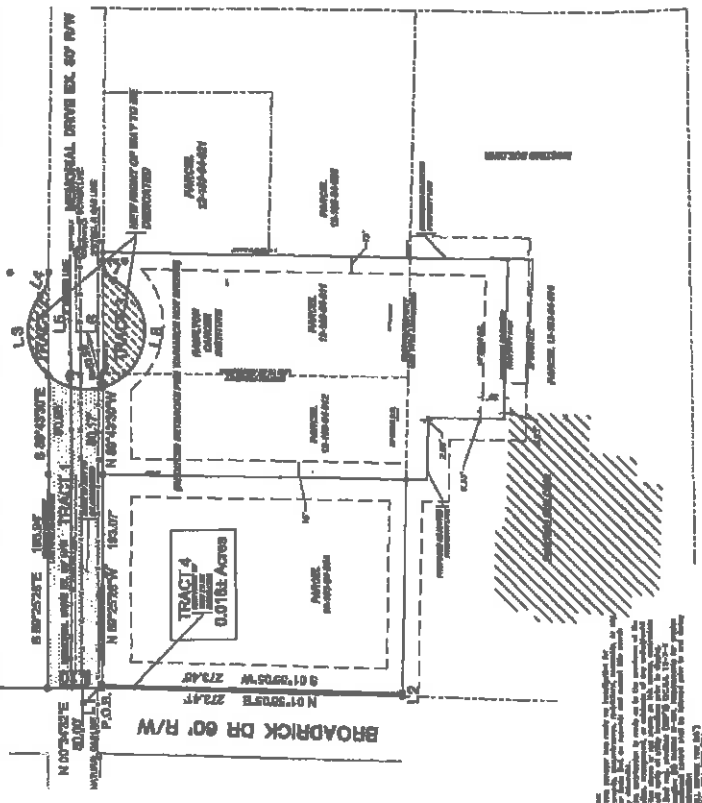
THERE IS HEREBY RESERVED TO The City of Dalton an easement for electrical and fiber optic infrastructure running along the existing Memorial Drive located at the present location of said services.

THERE IS HEREBY RESERVED TO The City of Dalton an easement for water and sewer lines running along the existing Memorial Drive located at the present location of said services.

**EXHIBIT B**

**See Attached Plat**

Together with and subject to covenants, easements, and restrictions of record.

[illegible]

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of \_\_\_\_\_

---

CITY CLERK

**MAYOR**  
DENNIS MOCK

**CITY COUNCIL**  
DENISE WOOD  
TATE O'GWIN  
TYREE GOODLETT  
GARY CREWS



**WWW.CITYOFDALTON-GA.GOV**

P.O. BOX 1205  
DALTON, GEORGIA 30722  
PHONE (706) 278-9500  
FAX (706) 278-8245

## **MEMORANDUM**

**TO:** Benny Dunn, Public Works Director  
Jason Parker, Police Chief  
Bruce Satterfield, Fire Chief  
Jim Bisson, City Attorney  
Tom Bundros, CEO, Dalton Utilities

**FROM:** Kimberley Witherow *KW*

**RE:** Street Closing/Quit Claim Request  
Hamilton Medical Center - Memorial Drive

**DATE:** March 3, 2017

---

Enclosed for your consideration is a street closing/quit claim request from Hamilton Medical Center for a portion of Memorial Drive. Please review the documents and return written comments stating approval/disapproval to this office within ten (10) days. A sign has been posted on the property and a public notice has been advertised. A first reading on the closing request will be held at the March 20, 2017 Mayor and Council meeting. Thank you for your assistance in this process and please call me should you have any questions.

## PETITION TO CLOSE ROAD

Comes now Hamilton Medical Center, Inc., a Georgia not for profit corporation, as Petitioner, and request that the City of Dalton, Georgia declare that portion of Memorial Drive described in the within Petition abandoned so that said road will no longer be a part of the City Road System and the rights of the public in and to said sections of road, as a public road, will cease, to-wit:

1. Petitioner is the owner of real estate contiguous and abutting both sides of said public road which is requested to be closed.

2. The City of Dalton has authority to declare said road abandoned for public purposes and to certify upon its minutes accompanied by a plat of the sketch of the road after notice to property owners located thereon that said road is no longer a part of the City Road System and the rights of the public in and to said section of road as public road shall cease.


3. No part of said road is a part of the state highway system nor of the Whitfield County, Georgia road system.

4. Petitioner shows that the aforesaid road and the general location of said road is shown in yellow by the sketch attached hereto and marked as Exhibit "A," for reference thereto.

**WHEREFORE,** Petitioner requests that any notice as required by law issued to property owners located on said road and that the public be notified of said petition; that the City of Dalton proceed to declare said road no longer a part of the City Road System and to certify the abandonment thereon upon its minutes accompanied by a plat or sketch of the section of the road to be closed; that the rights of the public in and to said section of road as a public road cease; and that a deed for said road to be delivered to the adjoining property owners.

This 23<sup>rd</sup> day of February, 2017.

**Hamilton Medical Center, Inc.**

By:   
Title: President and CEO



## EXHIBIT A

All that tract or parcel of land lying and being in Land Lot No. 183 in the 12th District and 3rd Section of Whitfield County, Georgia and being a portion of Memorial Drive located within the City of Dalton, Georgia, and being more particularly described according to a plat of survey prepared for Hamilton Medical Center, by Donald O. Babb, Georgia Registered Land Surveyor No. 2029, dated February 21, 2017, and being more particularly described according to said survey as follows:

BEGINNING at the existing southeast corner of the intersection of east right of way line of Broadrick Drive (60' R/W) and the existing south right of way line of Memorial Drive (50' R/W); thence north 00 degrees 43 minutes 32 seconds east, along the east right of way line of Broadrick Drive, a distance of 50.0 feet to the existing northeast corner of the intersection of east right of way line of Broadrick Drive and the existing north right of way line of Memorial Drive; thence north 89 degrees 25 minutes 28 seconds east, along the existing north right of way line of Memorial Drive, a distance of 195.94 feet; thence north 89 degrees 43 minutes 30 seconds east, along the existing north right of way line of Memorial Drive, a distance of 90.93 feet; thence running in a southerly direction, along the proposed cul-de-sac located at the proposed westerly terminus of Memorial Drive, along an arc to the left (53.50' Radius), an arc distance of 53.36 feet, said curve being subtended by a chord with a bearing of south 12 degrees 33 minutes 48 seconds west and a chord distance of 51.17 feet; thence north 89 degrees 43 minutes 30 seconds west, along the existing south right of way line of Memorial Drive, a distance of 80.17 feet; thence north 89 degrees 25 minutes 28 seconds west, along the existing south right of way line of Memorial Drive, a distance of 193.07 feet, to the POINT OF BEGINNING.

THERE IS HEREBY RESERVED TO The City of Dalton an easement for electrical and fiber optic infrastructure running along the existing Memorial Drive located at the present location of said services.

THERE IS HEREBY RESERVED TO The City of Dalton an easement for water and sewer lines running along the existing Memorial Drive located at the present location of said services.



March 10, 2017

Mr. Dennis Mock  
Mayor, City of Dalton  
Post Office Box 1205  
Dalton, Georgia 30722-1205

**RE: Street Closing/Quit Claim Request  
Hamilton Medical Center – Memorial Drive**

Dear Mayor Mock:

As requested in your March 3, 2017, memorandum, Dalton Utilities has reviewed the street closing/quit claim request for a portion of Memorial Drive. We have been in further contact with the design engineer who is working on the new Cancer Center as well as Hospital staff to discuss this possible road closure. The following paragraphs will detail our response and contingent approval of the closure.

Dalton Utilities currently maintains electrical, natural gas, water, sewer and telecommunications services along this portion of Memorial Drive. Many of these utility lines need to remain in place in order to maintain the level of service currently needed by the Hospital and other nearby customers. Therefore, it is imperative that we are provided with a permanent utility easement for future maintenance and/or replacement of this critical infrastructure. As you know, the driving factor behind the road closure request is to allow for a covered walkway to be constructed between the new Cancer Center and the main hospital building. This covered walkway will be constructed on top of several utility lines that cannot be relocated, so we are asking for some concessions by the Hospital in order to make maintenance of those lines less obstructive for the Utility and for the Hospital.

Electric and Fiber Optic: Electrical and fiber optic infrastructure is currently above ground type construction along this portion of Memorial Drive. As part of the Cancer Center project, those lines will be installed underground in concrete duct which will allow for maintenance and replacement as needed underneath the covered walkway with minimal disruption to that structure. The costs associated with this work will be paid by the Hospital.



Natural Gas: The existing 2-inch natural gas line will be re-routed to a cross-country route south of the proposed Cancer Center and will run from Elkwood Drive to Broadrick Drive. We chose to relocate the line due to the potential safety issues with having a gas line underneath the planned walkway structure. This relocation cost is estimated not to exceed \$25,000.00 and will be paid for by the Hospital.

Water and Sewer: Both of these utility lines will remain in place along the closed section of Memorial Drive provided that an easement is allowed for future maintenance and replacement of these lines as necessary. With regards to the covered walkway to be constructed above these lines, we have asked for the lines to be encased in a large casing pipe to allow for line replacement underneath the walkway. This appears to be the most economical manner to address the walkway. The costs associated with casing the water and sewer infrastructure will be borne by the Hospital. In addition, we request that no permanent structure, concrete or asphalt paving, etc. be placed on each end of the encasement piping to allow access for pipe replacement and maintenance, as necessary.

The above paragraphs were provided to give you an idea of how each utility service is being handled regarding the road closure and subsequent construction of the covered walkway. Our approval of the road closure is contingent upon the retention of a permanent easement as noted previously. Additionally, we will approve the road closure if the Hospital agrees to pay for the necessary line encasement and/or line relocations, as applicable and discussed in the above paragraphs. Please do not hesitate to contact me at (706) 529-1011 or [mbuckner@dutil.com](mailto:mbuckner@dutil.com) should any questions arise or if we may be of assistance.

Sincerely,



Mark Buckner

Cc: Tom Bundros

# DALTON FIRE DEPARTMENT

404 School Street  
Dalton, GA 30720

**BRUCE SATTERFIELD**  
FIRE CHIEF  
TELEPHONE 706-278-7383  
FAX 706-272-7107  
bsatterfield@cityofdalton-ga.gov



**PUBLIC SAFETY COMMISSION**  
BILL WEAVER  
KEITH WHITWORTH  
TERRY MATHIS  
KENNETH E WILLIS  
CARLOS CALDERIN

**TO: Kimberley Witherow**  
**FROM: Chief Satterfield**  
**DATE: March 9, 2017**  
**RE: Memorial Drive - Street Closing**

A handwritten signature in black ink, reading "B. Satterfield", is written over the "RE:" line of the memo.

The Dalton Fire Department approves the closure of Memorial Drive for Hamilton Medical Centers Cancer Institute.

This agency has analyzed all tactical decisions in protecting the original hospital facility and there were no issues noted. In addition to Hamilton Medical Center properties the agency also closely considered all tactical decisions for properties in the entire area unrelated to Hamilton and no issues were noted. Lastly, for the new Cancer Institute construction, several plan changes have occurred for tactical purposes and the plans attached to this document reflect the agreement. The attached plans are for documentation purposes.

Please contact me if there are questions.

## Bruce Satterfield

---

**From:** Jeff Dugger  
**Sent:** Thursday, March 09, 2017 8:54 AM  
**To:** Bruce Satterfield  
**Subject:** FW: HCI - Sprinkler and Smoke Venting Letter  
**Attachments:** VARIANCE EXHIBIT ROW CLOSURE\_rev2.pdf; VARIANCE EXHIBIT SOUTH PARKING ACCESS\_rev1.pdf

**From:** Joseph Parks [mailto:joe.parks@marchadams.com]  
**Sent:** Wednesday, March 08, 2017 4:30 PM  
**To:** Jeff Dugger; Kim Witherow  
**Cc:** Justin Roark; McKenzie, Sandy; Paul Adams (padams@laytonconstruction.com); Dan Maxwell (dmaxwell@realitytrustgroup.com); Jimmy Hobbs (JHobbs@enfinityeng.com); Al Bronner; Mark Buckner (mbuckner@dutil.com)  
**Subject:** RE: HCI - Sprinkler and Smoke Venting Letter

Good Afternoon Jeff:

Please see the two attached revised exhibits, to address your concerns with the previous plan.  
The changes include:

1. Addition of both striping and fire lane tow away signs along all fire lanes and the cul-de-sac bulb.
2. The loading zone sign has been changed to Fire Lane tow away.
3. Removal of the angled parking along south wall of parking garage. The travel lane next to the south wall is widened to 26' wide.
4. The layout of the private drive in the abandoned west section of memorial has been shifted a little northward, for grading design reasons.

Note, these changes will not change the plat nor the limits of the ROW closure.

If you have any questions please let me know.

Sincerely,

**Joseph Parks, PE**  
Civil Engineer

[joe.parks@marchadams.com](mailto:joe.parks@marchadams.com)  
direct: (423) 564-1482 fax: (423) 698-3638  
P.O. Box 3589; 310 Dodds Avenue  
Chattanooga, TN 37404

[www.marchadams.com](http://www.marchadams.com)



This electronic mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to which they are addressed. If you are not the intended recipient or the person responsible for delivering the electronic mail to the intended recipient, be advised that you have received this electronic mail in error and



Earl Swensson Associates, Inc.  
richard l. miller, architect

Architecture  
Georgia Registration No. RA-002312

March 07, 2017

Jeff Dugger  
Fire Marshal  
City of Dalton  
404 School St.  
Dalton, Georgia, 30720

**RE: HAMILTON CANCER INSTITUTE  
HAMILTON HEALTH SYSTEM  
FIRE SPRINKLER AND SMOKE VENTING CLARIFICATION  
ESa PROJECT NO. 15068.00**

On behalf of Hamilton health System regarding the Hamilton Cancer Institute, in accordance with our review and discussions with Jeff Dugger, we will provide the following:

- The fire sprinkler system will be designed per the requirements of the Ordinary Hazard classification.
- The two-story Lobby space and the south stairwell shaft (Stairwell #1) will have provisions to vent smoke.

Provisions for the above noted systems will be included in the final Construction Document submittal.

As always, call if there are any questions or comments.

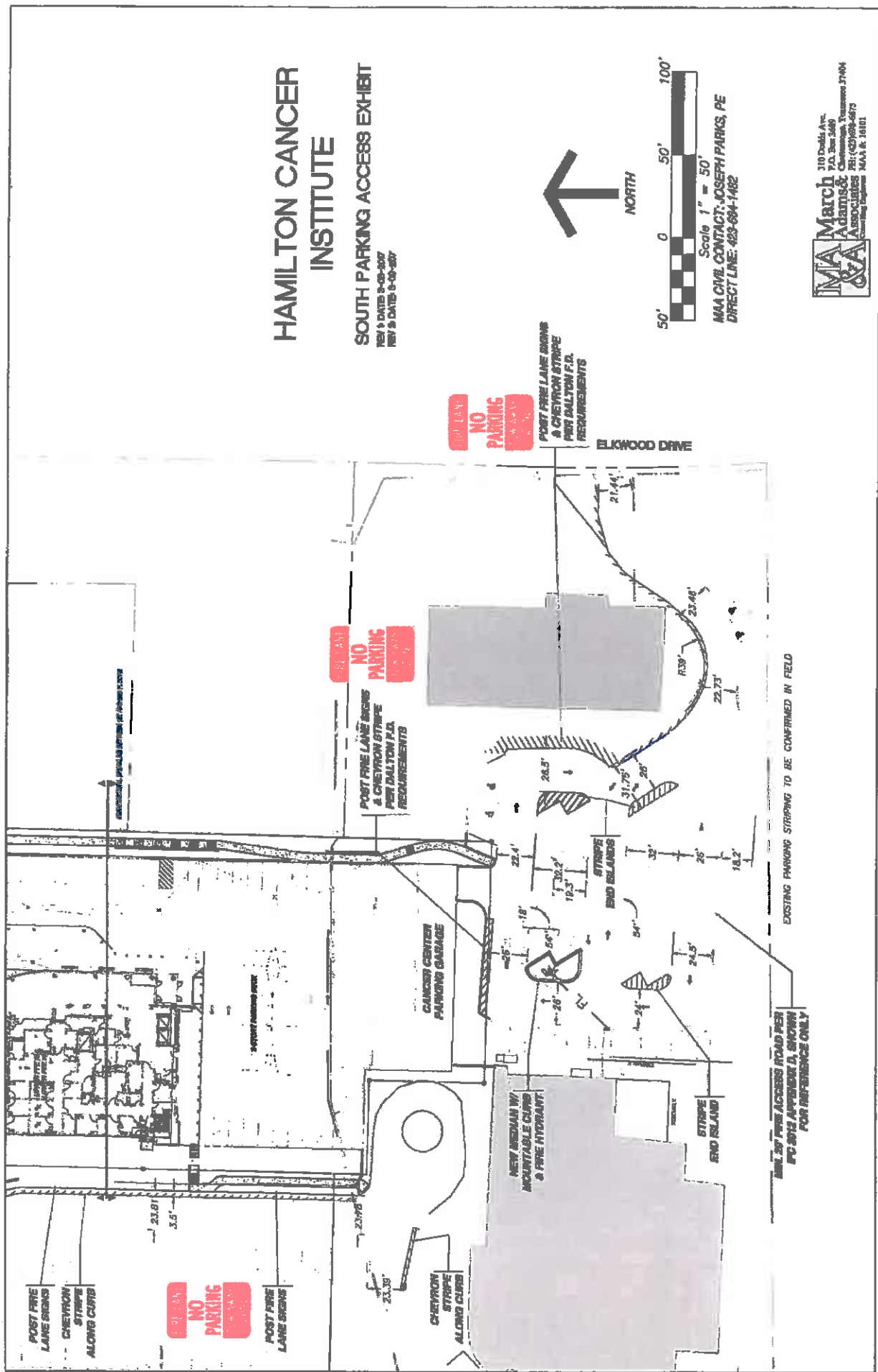
Sincerely,

**EARL SWENSSON ASSOCIATES, INC.**  
richard l. miller, architect

Al Bronner, AIA

cc: Justin Roark, ESa  
Dan Maxwell, APM  
Sandy McKenzie, HH  
Paul Celia, HH  
Hunter Daniel, EE  
Jimmy Hobbs, EE

[illegible]





DALTON PUBLIC WORKS DEPT.  
Benny Dunn, Director

P.O. Box 1285  
Dalton, GA 30722-1205  
Ph: 706-278-7077  
Fax: 706-278-1847  
bdunn@cityofdalton-ga.gov



MAYOR  
DENNIS MOCK

CITY COUNCIL  
DENISE A. WOOD  
WILLIAM T. O'GWIN  
GARY CREWS  
TYREE GOODLETT

**DATE:** March 6, 2017

**TO:** Kimberley Witherow, Administration Department

**SUBJECT:** Street Closing/Quitclaim Request  
Hamilton Medical Center for Portion of Memorial Drive

Please be advised that the Public Works Department has no objections to the proposed closing of a portion of the subject street as described in your correspondence dated March 3, 2017 provided the following conditions are met:

- (1). Tract 2, 3 & 4, as noted on Survey Plat dated 02/21/2017, are dedicated as Right-of-Way to the City.
- (2). Hamilton Medical Center will construct a cul-de-sac at the east end of the street closure to accommodate vehicle turn-arounds.

Benny J. Dunn  
Public Works Director

**Jason Parker**  
**Chief of Police**  
[jparker@cityofdalton-ga.gov](mailto:jparker@cityofdalton-ga.gov)  
[www.daltonpdblog.org](http://www.daltonpdblog.org)  
[www.cityofdalton-ga.gov/police](http://www.cityofdalton-ga.gov/police)



**Public Safety Commission**

**Terry Mathis**  
**Keith Whitworth**  
**Bill Weaver**  
**Kenneth E. Willis**  
**Carlos Calderin**

**DALTON POLICE DEPARTMENT**

**301 Jones Street, Dalton, Georgia 30720**  
**Phone: 706-278-9085 • Fax: 706-272-7905**

**March 10, 2017**

**Kimberly Witherow**  
**City of Dalton**  
**300 West Waugh Street**  
**Dalton GA 30720**

**Dear Kimberly,**

**We reviewed the street closing/quit claim request from Hamilton Medical Center for a portion of Memorial Drive. As requested, this change would not cause a problem with public safety, or delivery of law enforcement services to the area.**

**Please contact me if you have any questions.**

**Sincerely,**

A handwritten signature in blue ink, appearing to be "JP", is written over the printed name of Jason Parker.

**Jason Parker**  
**Chief of Police**

**fp**



## **ADMINISTRATION**

P.O. Box 1205 Dalton, GA 30722-1205  
Phone: 706-278-9500 Fax: 706-278-8245

**TO: SUSY TALLEY - DAILY CITIZEN NEWS LEGAL AD DEPARTMENT**  
**FROM: KIMBERLEY WITHEROW**  
**DATE: MARCH 1, 2017**

## **PUBLIC NOTICE**

Notice is hereby given that the Mayor and Council of the City of Dalton will consider the vacating and abandonment of its interest, if any, to that portion of Memorial Drive, lying and being in Land Lot No. 183 in the 12<sup>th</sup> District and 3<sup>rd</sup> Section of Whitfield County, Georgia and running through the lands of Hamilton Medical Center, Inc. All persons having any objections to the vacating and abandonment of said property are hereby notified to be present and make known such objections at the Mayor and Council Meetings to be held on March 20, 2017 and April 3, 2017 at 6:00 p.m. at Dalton City Hall, 300 W. Waugh St., Dalton, GA.

## **DATES AD TO RUN IN PAPER:**

Friday, March 3, 2017

Friday, March 10, 2017

## **105 Public Notices**

### **PUBLIC NOTICE**

Notice is hereby given that the Mayor and Council of the City of Dalton will consider the vacating and abandonment of its interest, if any, to that portion of Memorial Drive lying and being in Land Lot No. 183 in the 12th District and 3rd Section of Whitfield County, Georgia and running through the lands of Hamilton Medical Center, Inc. All persons having any objections to the vacating and abandonment of said property are hereby notified to be present and make known such objections at the Mayor and Council Meetings to be held on March 20, 2017 and April 3, 2017 at 6:00 p.m. at Dalton City Hall, 300 W. Waugh St., Dalton, GA.  
03/02 03/10

at 12:45  
Police  
to  
City of Cul-de-sac.  
ded to time  
ded to time

## Healthcare

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**Journal of Management Inquiry** 20(6) 789-804  
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**Table 1.** Demographic characteristics of study population

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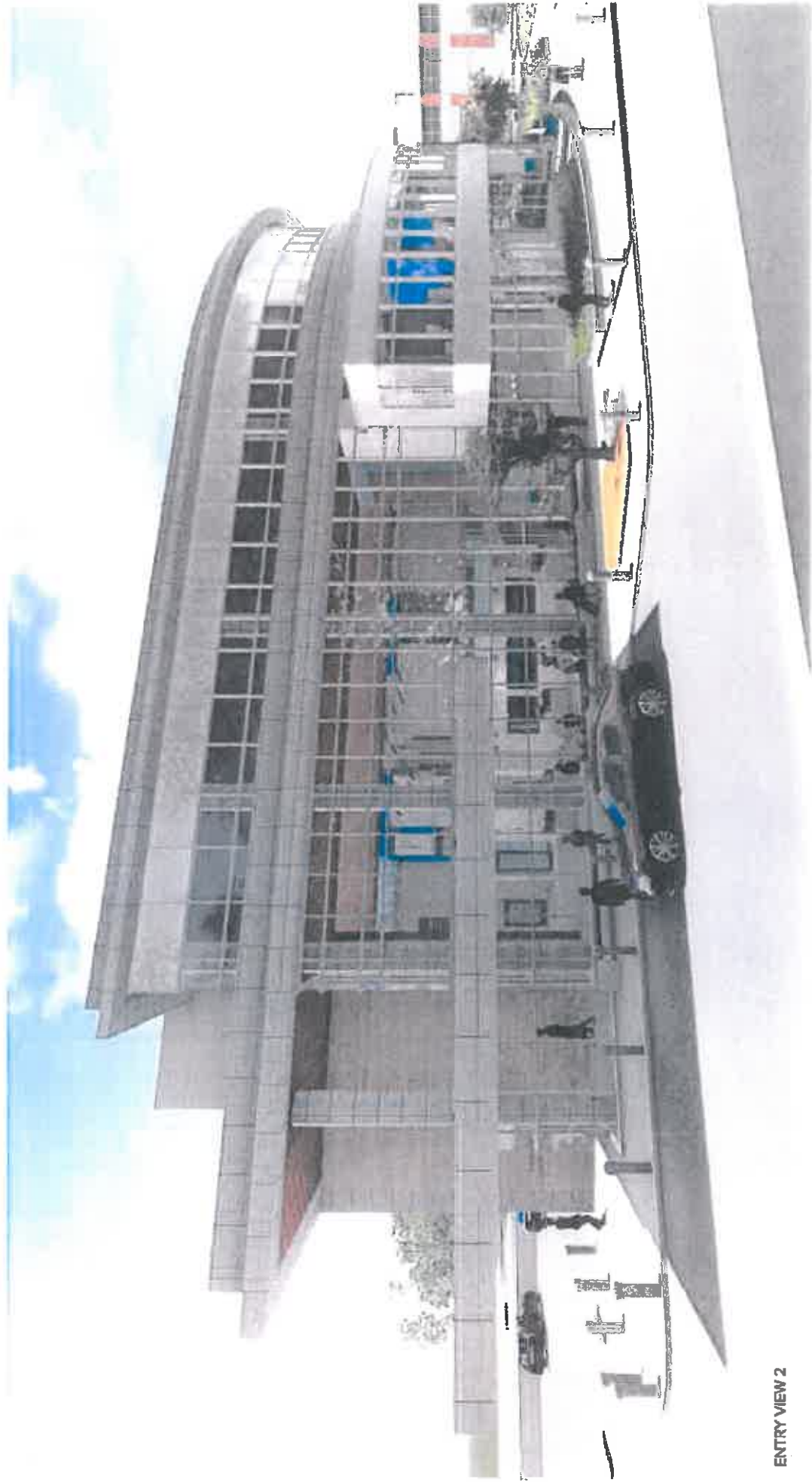
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ENTRY VIEW 1

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ENTRY VIEW 2



VIEW LOOKING EAST ON MEMORIAL DRIVE





BIRD'S EYE VIEW LOOKING WEST ON MEMORIAL DRIVE



BIRD'S EYE VIEW LOOKING EAST ON MEMORIAL DRIVE

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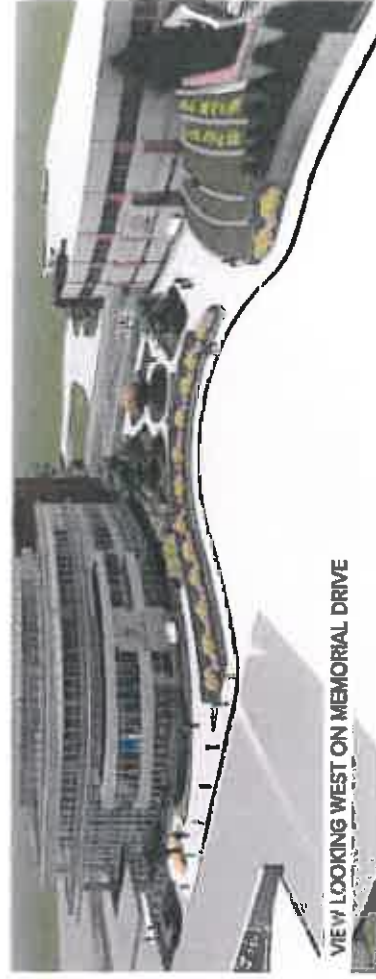
ENTRY VIEW 1



ENTRY VIEW 2



VIEW LOOKING EAST ON MEMORIAL DRIVE



VIEW LOOKING WEST ON MEMORIAL DRIVE